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NEW YORK STATE ATTORNEY GENERAL'S OFFICE  
-----X  
AN INVESTIGATION BY ANDREW CUOMO  
IN RE: NEW YORK STATE POLICE  
-----X

December 30, 2008

New York, New York

EXAMINATION CONDUCTED BY:  
Sharon L. McCarthy, Special Counsel for the New  
York State Police Investigation  
Andrew Farrell, Assistant Attorney General  
Amy McFarlane, Assistant Attorney General  
Also Present:

Investigator Sylvia Rivera, Meredith Savitt,  
Esq., Counsel for Glenn Valle

I N D E X

WITNESS	PAGE
Glenn Valle.	2

Stefanie Gerber  
Official Grand Jury Reporter

1 G. Valle

2 G L E N N V A L L E, having first been duly sworn  
3 by a Notary Public of the State of New York, was  
4 examined and testified as follows:

5 EXAMINATION BY

6 MS. MCCARTHY:

7 MS. MCCARTHY: Mr. Valle, thanks for  
8 coming down. Before we get started, I just want  
9 to go over some preliminaries. You are now under  
10 oath. If you intentionally make any false  
11 statements, you can be prosecuted for perjury. Do  
12 you understand that?

13 THE WITNESS: Yes, I understand that.

14 MS. MCCARTHY: You do not have to  
15 answer any questions that you think would violate  
16 your rights under the United States or New York  
17 State Constitution. Do you understand that?

18 THE WITNESS: I understand that.

19 MS. MCCARTHY: In the absence of a  
20 properly asserted privilege, you are required to  
21 answer the questions put to you. If you refuse to  
22 answer a question without reasonable cause, you  
23 will be charged with a misdemeanor. Do you  
24 understand that?

25 THE WITNESS: I understand that.

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2 MS. MCCARTHY: We are conducting this  
3 interview pursuant to Executive Law 63(8). I know  
4 you are very well familiar with section 63. It's  
5 the Attorney General's position that a witness may  
6 not reveal what happens during the course of the  
7 interview without a directive of the Governor or  
8 Attorney General. Do you understand that?

9 THE WITNESS: If that's the Attorney  
10 General's position.

11 MS. MCCARTHY: And you are appearing  
12 today, obviously, with your attorney. If at any  
13 time during this interview you would like to  
14 consult with her, please let us know and we will  
15 take a break. Do you have any questions before we  
16 start?

17 THE WITNESS: No, but I would like to  
18 put a couple of things on the record  
19 preliminarily. I believe, as you know, I have  
20 been subpoenaed to testify here. It's my  
21 impression, perhaps, that there was some umbrage  
22 taken of the fact that I requested a subpoena, Ms.  
23 McCarthy, and perhaps that's misinformation but I  
24 want to put on the record the reasons why I  
25 requested a subpoena.

1 G. Valle

2 MS. MCCARTHY: Okay.

3 THE WITNESS: Apparently I was also  
4 reminded of the fact that the Superintendent had  
5 sent a memo requesting that employees of the State  
6 Police voluntarily cooperate. I'm aware of that  
7 memo, and let me put on the record that at no time  
8 did I have any intention of not cooperating. As  
9 you know, can understand, as my position as  
10 counsel to the Superintendent is different than  
11 any other employee in the State Police, and we  
12 have issues here, complex issues relating to  
13 waiver of the attorney/client privilege.

14 As you know, the Superintendent, by  
15 letter, has waived a portion of that privilege,  
16 both as to himself and as to his predecessors. As  
17 counsel to the State Police for many years, I have  
18 been a party to confidential communications that  
19 would otherwise be covered by the attorney/client  
20 privilege. I have no objection, obviously, to the  
21 waiver. That is the client's prerogative, and in  
22 fact, I welcome the opportunity to be here today  
23 and testify.

24 However, due to the complexities of the  
25 relationship and being one party to conversations



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2 that were made to me under the good faith  
3 impression that they were privileged, I felt that  
4 two things would be in order; that number one, I  
5 have a written determination as to the legal  
6 waiver, which I was provided, and that I felt far  
7 more comfortable with a subpoena before testifying  
8 here. So that's the reasoning for the subpoena.

9 MS. MCCARTHY: No umbrages taken.  
10 You, however, are the only member of the New York  
11 State Police that has required a subpoena. That  
12 is a fact.

13 THE WITNESS: As counsel, though, I put  
14 on the record, I am like no other member as far as  
15 the relationship to the Superintendent and this is  
16 an extremely complex relationship.

17 MS. MCCARTHY: I understand your  
18 position.

19 THE WITNESS: Okay, thank you. I would  
20 also like to put something else on the record. As  
21 you see, I am accompanied by Counsel. As you  
22 know, I am sure, that pursuant to section 73 of  
23 the Civil Rights Law, I am entitled, as a witness,  
24 to be accompanied by counsel. I have chosen to  
25 exercise that right for a number of reasons.

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2 I do want to say, however, that  
3 unfortunately many months ago, at the outset of  
4 this investigation, I believe prior to your  
5 becoming part of it, Ms. McCarthy, it was  
6 indicated to me, it was communicated to me that  
7 Andrew Cuomo indicated to at least one high  
8 ranking member of the New York State Police that  
9 if a member or employee of the State Police  
10 appeared with counsel, having apprised themselves  
11 of that right, that would be viewed with a  
12 negative inference.

13 I was also told by another member of  
14 the Executive Committee that Mr. Cuomo said to  
15 this high ranking official that if anyone from the  
16 State Police showed up with counsel, he, being Mr.  
17 Cuomo, would figure that they had something to  
18 hide. If in fact that was said by Mr. Cuomo to  
19 any member of the State Police or to any  
20 individual, I take umbrage and I am extremely  
21 disheartened by that statement.

22 I believe if, in fact, it was made, it  
23 raises ethical and other issues of high  
24 seriousness. Being a former Assistant Attorney  
25 General myself, prosecuted cases pursuant to

1 G. Valle

2 section 63, I served as an Assistant Attorney  
3 General under Robert Abrams, if I indeed had made  
4 a statement such as that to high ranking members  
5 of an agency I was investigating, I believe it  
6 would have given rise to perhaps my removal and  
7 justly so.

8 We are not here today to adjudicate  
9 whether or not those statements were made and the  
10 impact of those statements on this investigation  
11 and upon Mr. Cuomo's ethical obligations as a  
12 member of the bar and as a prosecutor and most  
13 importantly as a fact finder pursuant to section  
14 63(8) of the Executive Law. Those issues, I'm  
15 sure, will be reviewed before other bodies.

16 But I want to place on the record the  
17 fact that I am represented by counsel, and I have  
18 absolutely nothing to hide. And I object if  
19 there's any inference to the contrary because I  
20 have chosen to appear here today with counsel.

21 MS. MCCARTHY: All right, Mr. Valle.  
22 I am completely unaware of any such statements  
23 having been made by the Attorney General. I can  
24 tell you that no statements have been made by any  
25 member of this investigative team in that regard.

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2 Many of the witnesses, if not most of the  
3 witnesses, have appeared with counsel. So you can  
4 rest assured that no negative inference is being  
5 drawn from the fact that you are here with an  
6 attorney. Okay?

7 THE WITNESS: At least by you.

8 MS. MCCARTHY: Well, there is no  
9 negative inference to be drawn. You have my  
10 representation that the office takes -- will not  
11 view it negatively.

12 THE WITNESS: Well, with all due  
13 respect, Ms. McCarthy, and I respect your position  
14 and I know why you're implying that you said  
15 something like that, nor would I ever think that  
16 you would. However, Mr. Cuomo is the Attorney  
17 General and he is conducting the investigation and  
18 he is part of this investigation, so please do not  
19 speak for the Attorney General.

20 MS. MCCARTHY: Well, you believe what  
21 you need to believe. I am just putting on the  
22 record my position.

23 THE WITNESS: I understand that. As I  
24 did mine.

25 MS. MCCARTHY: And as I said, I never

1 G. Valle

2 heard it before. Okay?

3 THE WITNESS: Okay.

4 (One-page letter dated 3-31-08 was  
5 marked as Valle Exhibit-1 for identification;  
6 12-30-08.)

7 Q. I am going to put before you Valle  
8 Exhibit-1 of today's date. That is Governor  
9 Paterson's letter to the Attorney General dated  
10 March 31, 2008 directing him to conduct an  
11 investigation as to whether or not there has been  
12 political interference with the State Police.

13 Have you seen that letter?

14 A. Yes, I have.

15 Q. Do you have any questions about that  
16 letter?

17 A. No, I don't.

18 (Three-page letter dated 12-19-08 was  
19 marked as Valle Exhibit-2 for identification;  
20 12-30-08.)

21 Q. I'm also showing you Valle Exhibit-2,  
22 which is a cover letter to Pedro Perez, the First  
23 Deputy Superintendent, from me dated December 19,  
24 2008, which was faxed to him, attaching the  
25 subpoena requiring your appearance here today.

1 G. Valle

2 Have you seen the subpoena?

3 A. I have seen the subpoena. I have not  
4 seen the cover letter, and I did accept service of  
5 the subpoena by fax.

6 Q. Right. That was one of the things that  
7 I indicated in here, that I needed to know whether  
8 you would accept that as service.

9 A. That was very easy as far as service.

10 (Two-page letter dated 12-11-08 was  
11 marked as Valle Exhibit-3 for identification;  
12 12-30-08.)

13 Q. Excellent. We knew where to find you.  
14 And now I'm going to show you Valle Exhibit-3,  
15 which is a letter dated December 11, 2008 from Mr.  
16 Perez to me, copying you.

17 Have you seen a copy of that letter?

18 A. Yes, I have.

19 Q. And that's the letter in which Mr.  
20 Perez indicates that the Superintendent has waived  
21 the attorney/client privilege for purposes of this  
22 investigation, correct?

23 A. In specific instances. Not a general  
24 waiver, but a limited waiver.

25 Q. Well, it says "the State Police remains



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2 committed to full cooperation with the Attorney  
3 General's investigation and, therefore, waives the  
4 attorney/client privilege for the purposes of this  
5 investigation commenced by the Governor's March  
6 31, 2008 letter only and to the Office of the  
7 Attorney General only to the extent reasonably  
8 required for the Attorney General to complete the  
9 investigation into possible political interference  
10 with the State Police."

11 Is that not what this letter says?

12 A. That's correct, but I believe the  
13 letter then does outline specific areas in which  
14 the privilege is waived, and that is consistent  
15 with my personal conversations with Superintendent  
16 Corbett.

17 Q. So your understanding is that the  
18 waiver is only as to the specific areas mentioned  
19 in this letter?

20 A. That is correct.

21 MS. MCCARTHY: All right. We need to  
22 get Mr. Perez on the phone then because that is  
23 not my understanding.

24 THE WITNESS: In fact, I believe that  
25 letter further goes on to say that there may be

1 G. Valle

2 areas outside what's delineated in that letter and  
3 that if they come up, Superintendent Corbett would  
4 be available by phone.

5 MS. MCCARTHY: Right. I'm going to get  
6 Superintendent Corbett on the phone right now  
7 because I want to have this be very clear. We can  
8 go off the record while I make the call.

9 (A discussion was held off the record.)

10 Q. Mr. Valle, why don't you tell me what  
11 your understanding of the attorney/client waiver  
12 is?

13 A. My understanding is that it's a waiver  
14 limited to what reasonably is within the scope of  
15 this investigation. I was orally told that it  
16 related to two specific incidents. The letter, I  
17 understand, is a little broader. My suggestion  
18 would be, we probably may be in agreement 99.9  
19 percent of the time, so why don't we proceed, ask  
20 questions, and Superintendent Corbett, my client,  
21 has made it clear that he's available, that if we  
22 have a question where I am not certain as to  
23 whether the waiver, whether the privilege has been  
24 waived or not, he is available for consultation.

25 So we may just be engaged in a battle

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2 of semantics here right now, but I have an ethical  
3 obligation, a legal obligation as attorney to make  
4 sure that I do not waive the privilege beyond that  
5 that my client has given. From a personal  
6 perspective, I'm only too happy to testify here  
7 and testify fully. I believe it's in the best  
8 interest of everyone so -- but I have an  
9 obligation. It's not my privilege to waive.

10 Q. Just so you're aware, there has been no  
11 assertion of any privilege at all during this  
12 investigation by anyone. Okay?

13 A. Well, but I'm the first counsel that  
14 you have spoken to from the State Police so...

15 Q. Actually, not. Let's just run through  
16 your background. That should be  
17 non-objectionable. You are chief counsel to the  
18 New York State Police?

19 A. I am.

20 Q. And your client is the Superintendent  
21 or the entire State Police?

22 A. My client is the agency. It's not to  
23 the Superintendent specifically, but the  
24 Superintendent is in charge of the agency. My  
25 relationship is directly with the Superintendent,

1 G. Valle

2 not through the First Deputy. Directly to the  
3 Superintendent. The Superintendent speaks for the  
4 agency and my client is, in essence, the agency.

5 Q. How long have you been chief counsel?

6 A. I have been chief counsel for 19 and a  
7 half years, roughly.

8 Q. It's my understanding you have worked  
9 as chief counsel under Superintendent Constantine,  
10 McMahon, Bennett, Felton and Corbett; is that  
11 right?

12 A. With Felton being an Acting  
13 Superintendent. That's correct.

14 Q. And as chief counsel can you tell me,  
15 do you have any duties outside of providing legal  
16 advice to the division of State Police?

17 A. My duties generally are general counsel  
18 to the agency. I provide legal advice, but I also  
19 engage in legal activity. We conduct disciplinary  
20 matters, I deal with the Governor's office with  
21 regards to legislation, we do training, we do a  
22 myriad of negotiating contracts, civilian  
23 disciplines, member disciplines, prosecutions. So  
24 it's beyond that of just providing legal advice.

25 Q. Do you sit on any sort of committees

1 G. Valle

2 within the division of State Police?

3 A. I am on the Executive Committee.

4 Q. What is the Executive Committee's  
5 function?

6 A. Executive Committee's function is to  
7 assist the Superintendent in the management of the  
8 State Police.

9 Q. And who else is on the Executive  
10 Committee?

11 A. It would be all the Deputy  
12 Superintendents, the administrative officer, the  
13 Assistant Deputy Superintendents. About 14  
14 people. First Deputy Superintendent.

15 Q. And when you say the Assistant Deputy  
16 Superintendents, is that all Assistant Deputy  
17 Superintendents?

18 A. I believe that all Assistant Deputy  
19 Superintendents are on the Executive Committee,  
20 that's correct.

21 Q. What sort of management issues does the  
22 Executive Committee get involved in?

23 A. Day to -- well, all sorts of management  
24 issues. A myriad of management issues. The State  
25 Police is a large organization of 6,000 employees.

1 G. Valle

2 Q. Are you involved in promotional  
3 decisions?

4 A. No, not -- well, certain members maybe,  
5 but not the Executive Committee as a whole, no.  
6 Promotional decisions aren't given to the  
7 Executive Committee, no. But certain members on  
8 the Executive Committee may provide input.

9 Q. But do you provide input on promotions?

10 A. No. No. Very rarely. I, perhaps,  
11 maybe once or twice maybe just was asked casually  
12 what I think about a particular individual, would  
13 I think a particular individual would be good in a  
14 particular position, but not on any sort of formal  
15 basis, no.

16 And the vast majority of promotions  
17 would occur, the overwhelmingly majority without  
18 me even having knowledge of them.

19 Q. Do you find out as the file 14 gets  
20 issued?

21 A. Quite often I'm one of the last to find  
22 out because I don't read the file 14s.

23 Q. Now, I'm familiar with the testimony  
24 that you have given in connection with Public  
25 Integrity's investigation, as well as testimony



1 G. Valle

2 that you gave before the State Senate concerning  
3 the Bruno files.

4 A. Yes. That's good.

5 Q. And if you could just explain to me,  
6 again in your own words, where the State Police  
7 falls within the Executive arm of the government?

8 A. We are a division of the Executive  
9 Department.

10 Q. And given that you are a division of  
11 the Executive Department, who does the State  
12 Police respond to or report to directly?

13 A. Well, the Superintendent of the State  
14 Police would report to the Governor's office.

15 Q. And do you know who the direct report  
16 is right now for the Superintendent in the  
17 Governor's office?

18 A. Right now it's probably -- to the best  
19 of my knowledge, it's probably a combination of  
20 Michael Balboni, who is I think the Deputy  
21 Secretary for Homeland Security, I believe that's  
22 the title, and also Denise McDonnell.

23 Q. McDonald? O'Donnell?

24 A. O'Donnell, I'm sorry. Denise  
25 O'Donnell.

1 G. Valle

2 Q. She is the commissioner of --

3 A. Yes. But it wouldn't be in that role  
4 that she would be -- she also has another  
5 position, I believe, under Secretary Balboni.

6 Q. Do you have any direct report to the  
7 Executive Chamber?

8 A. No. I mean, I would report to  
9 Governor's counsel's office, counsel to counsel.  
10 That relationship exists. But not -- I don't  
11 report through the office of the Secretary Balboni  
12 or Denise O'Donnell.

13 Q. I would just like you to explain that a  
14 little bit more. Is it accurate to say that you  
15 report to counsel's office in the Executive  
16 Chamber or that you have a relationship with  
17 counsel?

18 A. I think it's accurate to say I have a  
19 relationship with -- I don't report to the  
20 counsel. I'm not an assistant counsel to the  
21 Governor. I'm counsel to the Superintendent.

22 Q. Obviously, one of the things that we're  
23 grappling with here is given that the division of  
24 the State Police is within the Executive branch of  
25 government and answers directly to the Governor.

1 G. Valle

2 Is that an accurate statement, that you are in the  
3 Executive branch and you answer to the Governor,  
4 the division as a whole?

5 A. It's in statute, isn't it? I mean --

6 Q. Given that fact, what's the  
7 appropriate level of contact between, or  
8 influence, over the division of State Police by  
9 the Executive?

10 MS. SAVITT: Are you asking him his  
11 opinion or --

12 MS. MCCARTHY: I'm telling him that's  
13 something we're grappling.

14 Q. So I want to ask you some questions in  
15 connection with that in your role as division  
16 counsel in the years you have been there. Okay?

17 Have you, in the time that you have  
18 been there, noticed any differences between  
19 administrations in the amount of input or  
20 influence from the Executive Chamber over the  
21 division of State Police? For instance, has there  
22 been a particular Governor that has been more  
23 hands-off than others?

24 A. It would be difficult for me to answer  
25 that question because I generally don't deal

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2 directly with the Governor's operational  
3 personnel. That would be something generally the  
4 Superintendent and First Deputy would be involved  
5 in, so I'm not necessarily privy. No, I can't say  
6 that I have seen any significant difference, at  
7 least from my perspective.

8 Q. Does the Executive Chamber, in your  
9 experience, have the authority to make whatever  
10 changes it would like within the division of State  
11 Police?

12 MS. SAVITT: Are you talking about  
13 what's actually happened or statutorily?

14 MS. MCCARTHY: No. I'm just asking  
15 him the question.

16 MS. SAVITT: I understand that, but  
17 it's very --

18 A. Again, it's very difficult for me to  
19 answer that. I mean, Governors can set program  
20 objectives. They can set directions that they  
21 want an agency to take. They can set directions  
22 where they want to focus agency resources.

23 For instance, with a police agency,  
24 there could be a diversion of resources to  
25 fighting drugs, there could be a diversion -- on

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2 another hand a Governor can say I want to  
3 deploy -- recently we have employed State Police  
4 in Operation Impact to work in the city side by  
5 side. A Governor can say I want to direct  
6 resources to Homeland Security.

7 So there can be, and arguably should  
8 be, because we are a civilian -- we need -- as a  
9 paramilitary organization, they need to be civilly  
10 in control and accountability of that  
11 organization, because State Police has the police  
12 power of the state. So that the police power of  
13 the state is directed by the people of the state,  
14 and they're directed through their elected  
15 officials, and that's why we have an elected  
16 Governor who is accountable for the actions of the  
17 State Police and a Superintendent who is appointed  
18 by that Governor, confirmed by the Senate, who is  
19 accountable to that Governor.

20 So I mean, certainly there can be  
21 influence with regards to the operation of the  
22 State Police, and I would say should be.  
23 Otherwise we would have a quasi military hunter.

24 Q. So the Governor comes into office, new  
25 Governor comes into office and has a particular

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2 law enforcement agenda. It's appropriate, in your  
3 understanding of the structure, for the Governor  
4 to require the State Police to implement that  
5 agenda. Is that what you are saying?

6 A. Absolutely. I mean, it occurs with  
7 legislation. The State Police -- each year my  
8 office is responsible for promulgating legislative  
9 initiatives, that we attempt to make changes to  
10 law that would, could impact the Penal Law,  
11 Criminal Procedure Law, various other laws. It's  
12 passed through the Governor's office, rightly so,  
13 to see whether the proposals, these legislative  
14 initiatives are consistent with the agenda of the  
15 Executive.

16 Q. In your experience have there been  
17 clashes between what the division of State Police  
18 believes is the appropriate role for it to play  
19 and what the Governor's office thinks it should  
20 do?

21 A. I am not aware of clashes. To me it's  
22 not a question that the Governor sets the policy,  
23 the objection -- the objectives of the State  
24 Police. That's an Executive Department, so I  
25 don't know that there would be a clash. I am not



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2 aware of any clash with regards to State Police  
3 operations. If there was, I don't recollect it.

4 Again, I've been there a long time,  
5 though, and things could have happened almost 20  
6 years ago that --

7 Q. Well, that's why I'm asking you,  
8 because you have had a broad range of experience.  
9 So perhaps there may be something you can draw on  
10 in that experience.

11 A. I have been through, what, four or five  
12 Governors, four or five Superintendents,  
13 Republicans, Democrats. I have a long history  
14 there. I wish my memory was as long, though.

15 Q. I would imagine something like that  
16 would stick out in your mind, right?

17 A. I am not aware of clashes. I mean, I'm  
18 just not.

19 Q. How about promotions within the State  
20 Police, does the Governor's office have any  
21 influence over that?

22 A. I am not aware whether they do or not.  
23 It would not come through me, and if it happened,  
24 it was not shared with me.

25 Q. Well, do you think that's an

1 G. Valle

2 appropriate thing, for the Executive Chamber to be  
3 involved in promotions within the State Police?

4 A. I think you are just asking for an  
5 opinion at that point. I mean, I am here as a  
6 fact witness. I don't know that what my personal  
7 opinion may be with regards to these things is  
8 really an appropriate question, with all due  
9 respect, and again, it's a very broad question.  
10 It's -- it's difficult for me to answer.

11 Q. Preston Felton, as you have said, was  
12 not a named Superintendent. He was -- was it  
13 acting or interim, which is a better term?

14 A. Acting. There is no --

15 Q. Interim?

16 A. -- such term, although it was used.  
17 It's not appropriate to call an Interim  
18 Superintendent.

19 Q. Do you know whether there were any  
20 limitations placed on Preston Felton's authority,  
21 given that he was an acting status?

22 A. Not that I recollect ever being aware  
23 of, no. Not that I recollect that he ever shared  
24 with me. He acted like a Superintendent and I  
25 thought it was good.

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2 Q. Did Preston Felton ever tell you that  
3 he was seeking the approval of the Executive  
4 Chamber for promotions within the State Police?

5 A. No. No. Not that I recollect ever.

6 Q. Did any other Superintendent ever share  
7 that with you, that they were doing that, that  
8 they were seeking the approval of the Executive  
9 Chamber before making promotions within the State  
10 Police?

11 A. Not that I recollect. To the best of  
12 my knowledge, no.

13 Q. The State Police, obviously, has an  
14 unusual function compared to the other agencies in  
15 New York State, right? It's a law enforcement arm  
16 of the state government, right?

17 A. Correct.

18 Q. So it's the police for the state and  
19 that has a particular meaning to the public,  
20 right?

21 A. I guess that's apparent.

22 Q. Do you agree with the proposition that  
23 it's important for the State Police to be  
24 apolitical?

25 MS. SAVITT: Again, you're asking for

1 G. Valle

2 his opinion or -- he is here as a fact witness.

3 MS. MCCARTHY: Yes, I am. I'm asking  
4 his opinion. Does he have a privilege that he is  
5 asserting? I object to you interrupting.

6 MS. SAVITT: And I object to asking  
7 him questions that are not fact based.

8 MS. MCCARTHY: I think he's actually  
9 said this in his own testimony at times. Okay?

10 Q. Is it fair to say that the State Police  
11 needs to be apolitical?

12 A. Are you, pursuant to the subpoena,  
13 ordering me to answer that question? I mean, it's  
14 an opinion.

15 Q. What is your objection to the question?

16 A. Because -- define the term political.  
17 I mean, yes, I have opined in the context say of  
18 Senate proceedings, but that's a very different  
19 context than being put under oath and then being  
20 asked under oath as to specific opinions.

21 And without really defining political,  
22 what some person's definition of what's political  
23 and another person's definition of what's  
24 political may be very different, and you are  
25 asking me under oath an opinion that -- without

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2 defining the parameters of what's political.

3 Q. Well, you tell me. What's political?

4 A. That's almost an impossible question to  
5 answer, what is political. I mean, political can  
6 be partisan politics. Political -- I mean, even  
7 private companies will have what's called  
8 politics, as far as getting to a particular place  
9 or getting a promotion. Someone will say well,  
10 that's all politics. Is that political in the  
11 context of what you're asking? I mean --

12 Q. I think you understand what I mean.

13 A. No, I'm really not. I really don't  
14 understand what you mean.

15 Q. All right, Mr. Valle. Terrific. Are  
16 you familiar with Preston Felton's testimony  
17 that's been -- well, you are familiar with the  
18 Attorney General's report from July of 2007,  
19 correct?

20 A. I -- yes. Correct.

21 Q. And you're aware that Preston Felton  
22 testified that Bill Howard was his boss?

23 A. Words to that effect, yeah. I was  
24 present when he testified, so he was his  
25 supervisor or his boss he reported to.

1 G. Valle

2 Q. Is that an accurate description, that  
3 Bill Howard was his boss?

4 A. That's up to -- between Preston Felton  
5 and the Governor's office. Nobody informed me  
6 from the Governor's office who his boss was. From  
7 my experience, he appeared to report to Bill  
8 Howard, and Bill Howard was the person who was his  
9 contact in the Executive Chamber and who, who  
10 would be his main communications link.

11 In general, from my experience, talking  
12 about my experience, the Superintendent, although  
13 appointed by the Governor, generally, on rare  
14 occasions, from what I understand, speaks directly  
15 to the Governor, that since Mario Cuomo was  
16 Governor there have been either commissioners of  
17 criminal justice or as we said Mike Balboni, there  
18 has been one or two or maybe three people between  
19 the commissioner and the Executive.

20 Q. How frequent is your contact with the  
21 Superintendent?

22 A. This Superintendent?

23 Q. We will start with this Superintendent.

24 A. With this Superintendent, it can vary.  
25 I mean, contact can be a quick telephone call,



1 G. Valle

2 contact could be a meeting, contact could be  
3 Executive Board meetings, one-on-one meetings. I  
4 mean, it can vary from week to week. It's varied  
5 between Superintendents.

6 Q. Is there any Superintendent that you  
7 have had more day-to-day contact with than others?

8 A. Perhaps with Jim McMahon. Well, gee, I  
9 don't know. I've had -- I have contact with all  
10 of them. I mean, there's been a lot of them. You  
11 know, sometimes, again, at the beginning of a  
12 Superintendency, let's just call it, that's  
13 probably not a proper word of English, when  
14 someone's new to the position, especially because  
15 I've been there a while, they may seek some more  
16 guidance on the office operations of what we do,  
17 and as they are in the position for a number of  
18 years, they may, you know, not need that initial  
19 meeting that we have.

20 But again, it just depends on what's  
21 going on. Sometimes there's important legal  
22 issues. There's important cases we defend at any  
23 given moment. Probably over 500 lawsuits. There  
24 may be a period of time during negotiations with  
25 the employee unions, so it can vary. I don't know

1 G. Valle

2 that I say per Superintendent. I guess it just  
3 depends on what's going on in the world at any  
4 given time.

5 Q. Well, let's start with Superintendent  
6 Constantine. Based upon your interaction with  
7 Superintendent Constantine, what is your  
8 understanding of the frequency of his contact with  
9 the Governor?

10 A. I can't really answer questions as to  
11 when these individuals -- how frequently they were  
12 in contact with the Governor. That's not  
13 necessarily something that I'm privy to.

14 Q. Well, did you ever -- let's take, for  
15 example, Superintendent McMahon. Did  
16 Superintendent McMahon ever tell you that he  
17 rarely spoke to Governor Pataki and that, in fact,  
18 most of his messages came through Dan Wiese? Did  
19 he ever tell you that?

20 A. He never told me that. Not that I  
21 recollect. Again, most Superintendents have told  
22 me that they rarely speak to the Governor.

23 Q. You indicated that you deal with the  
24 Executive on legislative issues; is that right?

25 A. Yes.

1 G. Valle

2 Q. Are there any examples that you can  
3 think of where the State Police, and I've asked  
4 you this in a different context, clashed with the  
5 Executive Chamber on different issues?

6 A. I just want to clarify. You just asked  
7 me did Jim McMahon ever tell me that he has to go  
8 through Dan Wiese to get to the Governor?

9 Q. Yes.

10 A. Yeah, I don't recollect any statement  
11 being made as that. I recollect Jim McMahon  
12 saying that he had spoken to Dan Wiese and I'm  
13 sure that he probably told me that Dan Wiese spoke  
14 to the Governor, but I don't recollect Jim McMahon  
15 saying that he has to go through Dan Wiese to go  
16 to the Governor. I don't recollect.

17 Q. Okay. Are you aware of any instances  
18 where the State Police or you --

19 A. And I just want to be specific too.  
20 You know, you're asking me questions that span two  
21 decades, okay. So I see people on any number of  
22 occasions, and when I mean people, I mean  
23 Superintendents. I can see them in the men's  
24 room, I can see them in the hallway, I can see  
25 them walking out of the lobby. I can be in an

1 G. Valle

2 office sometimes with them for a half hour going  
3 over different things.

4 So it's very difficult for me to go  
5 back, even just a matter of months, did anyone  
6 ever say, did anyone ever mention, did anyone ever  
7 drop this word or this name, because with Jim  
8 McMahon, say, I was counsel to him for, what, nine  
9 years. So I can't with specificity did an  
10 individual say this.

11 If there was a momentous issue, if  
12 there was some sort of major policy division, I am  
13 more likely to remember it. But if you just say  
14 to me did someone mention this to me and we're  
15 talking 15 years ago, it's extremely difficult for  
16 me to answer with certainty.

17 Q. Are there any examples that you can  
18 think of where you clashed with counsel's office  
19 in the Executive Chamber over legislation?

20 A. Absolutely not. I mean, in terms of  
21 clash? You know, sometimes we've we put in bills  
22 that they didn't approve. I'm not going to clash  
23 with them. That's the Executive's call.

24 I may not have agreed with it. We may  
25 have spent a lot of work on the bill, thought it

1 G. Valle

2 was a good bill, but they say hey, go or no go.

3 Q. Such as?

4 A. A bill that they think maybe costs too  
5 much money, is not appropriate for budgetary  
6 reasons, they say you can't do it. Then we can't  
7 do it.

8 Q. You don't remember any specific  
9 legislation?

10 A. Oh, there were many bills that don't  
11 get approved. I don't know off the top of my head  
12 to say which one. I mean, over the course of each  
13 year, I mean after all these years, we proposed  
14 100, way over 100 bills. Sometimes we propose,  
15 you know, 10, 12, 15 bills and get four or five  
16 approved.

17 Q. The Executive services detail, I will  
18 refer to it as ESD, used to be called the  
19 protective services unit, right?

20 A. That's correct. I believe that --

21 Q. Can you tell me in general what is  
22 counsel's involvement with ESD?

23 A. Not --

24 MS. SAVITT: Which counsel, his  
25 counsel or the Executive counsel?



1 G. Valle

2 MS. MCCARTHY: I am talking to him  
3 about his role with ESD.

4 A. Minimal. Minimal. Let me give you an  
5 example.

6 Q. Sure. Examples are good.

7 A. Gary Berwick passed away recently. I  
8 believe, I believe, I'm not even certain, he  
9 became in charge of the Executive service detail,  
10 the protective detail subsequent to Dan Wiese. I  
11 don't think I ever met the man when he then left  
12 that detail and came into headquarters building.  
13 I didn't even know who he was. I don't know that  
14 I'd ever spoken to him.

15 I met him for the first time, and  
16 perhaps spoke to him for the first time, when he  
17 left the detail and came into the building and  
18 served as an assistant to Preston Felton. So  
19 that's -- that would be an example of --  
20 personally I've had very little dealings with ESD  
21 or the protective service detail. Minimal.

22 Q. All right. Counsel's office, though,  
23 drafts things like confidentiality agreements that  
24 members have to sign; is that right?

25 A. Yeah. That was -- probably that's one



1 G. Valle

2 of the things that we did do, and I think that was  
3 under Preston Felton, dealing with members on that  
4 detail discussing information that they heard in  
5 the context of their performing in that detail,  
6 confidential governmental information. Yes.

7 We had some -- we had some role in  
8 that. I believe, to the best of my knowledge,  
9 that some agreements were crafted and they were  
10 sent through counsel's office to review to see if  
11 they were, you know, legal.

12 Q. Was there -- I'm trying to understand  
13 what you just said. Are you saying that there  
14 were no confidentiality agreements until Preston  
15 Felton was Acting Superintendent?

16 A. I wasn't aware of any. There may have  
17 been, but I'm not certain that I was aware of any,  
18 and I'm not certain that we ever saw one prior,  
19 previous to that. It's possible.

20 Q. Are you aware that there was an audit  
21 recently conducted of ESD?

22 A. That's my understanding. I wasn't  
23 involved in it and I certainly got it hearsay.

24 Q. So you haven't seen the results of the  
25 audit?

1 G. Valle

2 A. No. It hasn't been shared with me for  
3 review.

4 Q. Are you familiar with how troops  
5 generally run as far as the chain of command is  
6 concerned?

7 A. Yes.

8 Q. Did you know that ESD was not run like  
9 a normal troop?

10 A. Well, it's not a normal troop. I mean,  
11 normal troops are geographical, you know, they  
12 have patrol functions, BCI functions. ESD is like  
13 a detail, so to call it a troop would not be  
14 appropriate. It's really a detail.

15 Q. Well, does counsel's office have any  
16 involvement with compliance with record keeping by  
17 various troops?

18 A. If we were asked questions with regards  
19 to retention of records, legal issues with regards  
20 to when can we destroy these, what do we need to  
21 do with these, how can these be retained,  
22 certainly we would be of assistance. That's our  
23 job, to furnish legal guidance to the agency or to  
24 a specific troop.

25 Q. Well, was it ever brought to your

1 G. Valle

2 attention that ESD was not keeping normal records,  
3 normal State Police records?

4 A. Was it brought to my attention, no.  
5 Not to my recollection. And I'm not sure what you  
6 mean, really, by normal State Police records, how  
7 that would be defined. But I don't recollect  
8 someone coming to me --

9 Q. Any sort of routine records that would  
10 normally be kept by a troop or a detail,  
11 day-to-day records.

12 A. I don't know that they were under any  
13 requirement or what their procedures were with  
14 regards to keeping records. They may be very  
15 different from what a troop is required to keep.

16 I don't recollect someone coming to me  
17 and saying do we need to keep this or do we need  
18 to keep that or -- I really don't recollect that.

19 Q. In the time that you have been chief  
20 counsel, have you had any involvement in any sort  
21 of review of ESD's procedures or any sort of  
22 oversight of particular aspects of ESD?

23 A. Not to the best of my recollection,  
24 although it's certainly possible that a particular  
25 aspect of something that ESD does, someone could

1 G. Valle

2 have spoken to me about. I mean, it's -- it's  
3 just hard to say. I don't recollect any  
4 specific -- if you have examples, please feel free  
5 to share them with me.

6 Q. Did anybody ever tell you that Governor  
7 Spitzer was trying to evade security that was  
8 provided to him by ESD?

9 A. If I heard that, I think I heard it  
10 after the fact, and I mean the fact being the  
11 fact. I don't think we have to be specific as to  
12 what the fact was. I remember maybe saying to  
13 someone gee, how did someone -- how did this  
14 happen and told well, he didn't like security. I  
15 think that was after the fact, and that was  
16 probably in some sort of casual conversation or in  
17 some conversation, perhaps, with Preston Felton.

18 Q. Well, are there any liability issues  
19 that occurred to you as a result of that, of what  
20 happened with Governor Spitzer?

21 A. Liability issues, vis-a-vis whose  
22 liability?

23 Q. State Police.

24 A. Because he had a visitor in the hotel  
25 room?

1 G. Valle

2 Q. Because he was not under security. He  
3 was without security at various points.

4 A. Oh, well, when say liability, to me it  
5 connotes a legal liability and there is a cause of  
6 action and right to damages. I don't know that I  
7 would see that. I mean, I don't see that at all.

8 Would there be a liability as far as  
9 public opinion if you lose the Governor? That  
10 doesn't look really good to read on the front page  
11 of the paper. So when you say liability, I guess,  
12 you know, I'm not sure exactly what you mean. I  
13 can see public liability, certainly. It just  
14 would look awful.

15 But I mean, on the other hand, if a  
16 Governor says I don't want security, I don't think  
17 that we have a legal right to imprison the  
18 individual. I mean, I think --

19 Q. Well, this is sort of, kind of the crux  
20 of the question here, which is if State Police  
21 feels that something needs to happen, the Governor  
22 needs to have security outside of his hotel room,  
23 for instance, and the Governor says I don't want  
24 that, go away, does the State Police have any  
25 standing to push back on the Governor's request?

1 G. Valle

2 A. Standing, again, is a legal term of  
3 art. I think -- and again, I'm the counsel. I'm  
4 not a security expert. Okay?

5 Q. I'm not asking you a security question.  
6 I'm asking you, does the State Police -- can the  
7 State Police say no to the Governor? That's my  
8 question.

9 If the Governor says security, I want  
10 security but I only want it here. State Police  
11 says we can't do our jobs if we're not where we  
12 think we should be, Governor. Can the State  
13 Police push back on that?

14 A. Can the State Police push back?  
15 Certainly, I mean, someone can push back. Can the  
16 Governor then push back harder? Perhaps, you  
17 know. I mean, I think normal discourse would be  
18 two people sitting down and saying look, Governor,  
19 you need this and you need this and you need this,  
20 and the Governor, though, ultimately making the  
21 decision with regards to the presence of State  
22 Police.

23 I mean, that's just my call. I don't  
24 know that it's -- it's really not a legal issue,  
25 as far as I see.



1 G. Valle

2 Q. Well, do you know that other -- are you  
3 familiar with the Secret Service's procedures?

4 A. I'm not.

5 Q. Do you know that other states have a  
6 requirement that --

7 A. I am not aware of other states.

8 Q. You don't know anything about other  
9 states?

10 A. And nobody, to my recollection, in the  
11 State Police or any of the Governors, any of the  
12 Superintendents I worked for came to me and said  
13 can we push back. I wasn't even aware of what  
14 levels of security we provide to any of the  
15 Governors.

16 Q. What about the Lieutenant Governor, do  
17 you have any knowledge of the sort of protection  
18 that's provided to the Lieutenant Governor?

19 A. Again, currently, no. Historically, I  
20 believe the Lieutenant Governor -- at one time I  
21 had a case involving the member who was assigned  
22 to the Lieutenant Governor, so that's how I became  
23 knowledgeable of it actually, it was a  
24 disciplinary case.

25 Up to that time I had no real

1 G. Valle

2 understanding of what we provided the Lieutenant  
3 Governor, period.

4 Q. When was that case?

5 A. I'm going to say sometime in the '90s,  
6 I believe.

7 Q. Do you know who the Lieutenant Governor  
8 was?

9 A. Yeah. I think the Lieutenant Governor  
10 was, I think that Betsy McCoy. I think it was in  
11 the first term of the Pataki administration. To  
12 the best of my recollection, I believe it was  
13 Betsy McCoy.

14 Q. And do you remember the issue?

15 A. Well, what had happened was the  
16 individual who was assigned to the Lieutenant  
17 Governor, I believe, dropped her off in Manhattan.  
18 Again, this is to the the best of my recollection.  
19 This was a -- it was a disciplinary and then a  
20 civil lawsuit. Dropped her off and then proceeded  
21 home, but on the way home got involved in, in some  
22 misconduct and then was, fell asleep and I think  
23 was late picking up the Lieutenant Governor the  
24 next morning in the city.

25 So it became a whole disciplinary case.

1 G. Valle

2 So my office, I believe, was involved in the  
3 disciplinary and then there were lawsuits flowing  
4 from it. So that's the knowledge that I had with  
5 regards to the Lieutenant Governor's security.

6 Q. So your knowledge began with Betsy  
7 McCoy, is that fair?

8 A. I don't want to say it began, but  
9 that's when I became with any sort of detail.  
10 It's probably, probably fair to say that prior to  
11 that I didn't know what we did for the Lieutenant  
12 Governor or whether or not we even provided  
13 security, frankly.

14 Q. Okay. Did you become aware at some  
15 point during Betsy McCoy's term with Governor  
16 Pataki that State Police had withdrawn her  
17 security?

18 A. I heard that, but I think I heard that  
19 after the fact, frankly. I don't know that I  
20 heard that during -- it's possible.

21 (New York Post article was marked as  
22 Valle Exhibit-4 for identification; 12-30-08.)

23 Q. I'm just going to mark as Valle  
24 Exhibit-4, a New York Post article dated March 13,  
25 1996. It's called "Dog House: Betsy loses her

1 G. Valle

2 State Police Tail." Do you recall when this hit  
3 the press?

4 A. I don't read the New York Post as a  
5 general proposition.

6 Q. Whether you read the Post or not, were  
7 you aware that this had become public, that the  
8 State Police had withdrawn its security of the  
9 Lieutenant Governor?

10 A. It's possible. I mean, if this was in  
11 the newspaper, and it may have been in other  
12 newspapers. I don't know for a fact that it is  
13 actually accurate. I mean, sometimes what's in  
14 the newspapers isn't exactly accurate.

15 Q. Well, did you know that Superintendent  
16 McMahon engaged in a six week letter writing with  
17 the Lieutenant Governor concerning the resumption  
18 of her detail?

19 A. I am not specifically aware of any six  
20 week -- it's possible that he had mentioned it to  
21 me. I mean, is it possible that Jim McMahon one  
22 day said oh, I'm having a problem with, but he's  
23 not going to come to me for help on it. I  
24 wouldn't have gotten it involved in it.

25 Again, people can mention things to me

1 G. Valle

2 casually, so I can't say for certain. I mean, if  
3 this was public knowledge and it was out and it  
4 was in the local Albany papers and in the New York  
5 Times, I might have been aware of it, but I can't  
6 say for sure.

7 Q. It was in just about every paper. This  
8 is the first article, which is -- I represent to  
9 you it's the first article that appears concerning  
10 the matter.

11 A. I'm the legal counsel. I'm handling  
12 the legal operations of the division, okay. This  
13 type of issue, if and when it occurred, it doesn't  
14 directly impact my operation.

15 Q. Does your operation concern itself with  
16 reputational issues concerning the State Police?

17 A. It could, if I'm asked. Sometimes I  
18 will give an opinion, if we have a particular  
19 policy and I will say hey, I think this, this  
20 could be good or this doesn't look good, the  
21 policy we have here, I don't know that it plays  
22 well to the public, or this is a good policy.

23 So to some extent certainly the public  
24 relations of the agency, the public persona and  
25 how it's viewed is important to me. Certainly

1 G. Valle

2 negative press articles disparaging of the State  
3 Police, I don't enjoy reading. Who would?

4 Q. Well, do you recall having any concerns  
5 when this happened with the Lieutenant Governor  
6 that it appeared that the State Police was  
7 involved in a political battle between the  
8 Governor and the Lieutenant Governor?

9 A. I don't recall having any personal  
10 concerns with regards to that. My view is that's  
11 at a level beyond me.

12 Q. And do you think that the decision to  
13 terminate security for the Lieutenant Governor is  
14 something that could be made by the Superintendent  
15 alone?

16 A. I don't know that there was a decision  
17 we had to terminate her coverage. I don't know  
18 that for a fact. I'm not sure that anyone ever  
19 shared that with me, either before, during or  
20 after.

21 Is it a decision that the  
22 Superintendent can make? Well, the Superintendent  
23 controls the resources of the State Police, so I  
24 can presume the Superintendent can make that  
25 decision. If it was not a popular decision with



1 G. Valle

2 the Governor's office, I don't know how long the  
3 decision would be implemented operationally.

4 Q. So it's something, a decision that the  
5 Governor's office could override?

6 A. Well, I think if -- for instance, if  
7 the State Police decided we were not going to  
8 protect the Governor any longer, the Governor  
9 could say I would like some security here. And if  
10 the Superintendent said no, we have better things  
11 to do, I think there might be some Senate  
12 confirmation hearings in the near future.

13 Q. The Superintendent would lose his job,  
14 right? That's what you mean by that?

15 A. That's speculative, so maybe we  
16 shouldn't even go there. I mean, it is what it  
17 is.

18 Q. I'm asking for your straightforward  
19 answers on these things. If the Superintendent  
20 were told by the Governor, you have taken away the  
21 Lieutenant Governor's security detail for your own  
22 operational reasons, I'm telling you put it back,  
23 the Superintendent would have to do what the  
24 Governor wanted, correct?

25 A. Well, no. The Superintendent doesn't

1 G. Valle

2 have to do anything.

3 Q. Well, he risks being terminated, right?

4 A. Yeah. I mean, that's an answer, as a  
5 citizen walking on the street outside -- I think  
6 if you ask the citizen -- the Governor appoints  
7 the Superintendent of State Police, and if the  
8 Governor said to the Superintendent of State  
9 Police, I want you to provide security to the  
10 Lieutenant Governor and the Superintendent of the  
11 State Police said no, I think the average citizen  
12 on the street would say I think there may be a new  
13 Superintendent in the wings. Isn't that obvious?

14 Q. Did you have any conversations with  
15 Preston Felton about the level of security to be  
16 provided to the Lieutenant Governor?

17 A. I don't recollect any conversations  
18 with any Superintendent regarding the level of  
19 security. But specifically, I don't recollect any  
20 conversation with Preston Felton as to the level  
21 of security of the Lieutenant Governor.

22 (E-mail dated 11-6-07 was marked as  
23 Valle Exhibit-5 for identification; 12-30-08.)

24 Q. I marked as Valle Exhibit-5 an e-mail  
25 from you to Preston Felton dated November 6, 2007

1 G. Valle

2 asking "do you know if we ever did any sort of  
3 security analysis with regards to the LG position  
4 to decide what level of protection is  
5 appropriate?"

6 Do you remember that?

7 A. Yeah, I don't remember it, but I'm  
8 looking at it. Yup, it looks like I wrote it.  
9 Yeah, I believe what occurred at that point is I  
10 was called by the Governor's office to  
11 determine -- pursuant to certain IRS regulations,  
12 security analysis has to be performed on  
13 officials. There's Internal Revenue codes that  
14 deal with the provision of security to government  
15 officials.

16 And I believe -- I know at one point I  
17 was asked by Governor's counsel's office when  
18 David Paterson was Lieutenant Governor as to  
19 whether or not we ever did a security analysis,  
20 because the Lieutenant Governor had a matter  
21 relating to IRS and what had to be -- as far as  
22 what level of security was commensurate with the  
23 job. So I think that's why I inquired.

24 Q. Did you get an answer to that question?

25 A. I think the answer was no, I believe.

1 G. Valle

2 Because I think then we did one.

3 Q. The State Police then did a security  
4 analysis?

5 A. Yeah. Yeah, uh-huh. Because I  
6 remember that Preston Felton was there and Jim  
7 Harney was -- and I gave it to Jim Harney or  
8 Preston gave it to Jim Harney, and I think they  
9 did a security analysis. I think they said yeah,  
10 it's a good idea, we should do that.

11 But I think you really are required, as  
12 a government official, as IRS regulations, and we  
13 do that now, I guess, for the Governor and  
14 probably -- well, there is no Lieutenant Governor.  
15 So I think that's, that's the origin of that.

16 Q. Did you have any discussions with  
17 anybody around that time concerning the level of  
18 security that was being provided to the Lieutenant  
19 Governor?

20 A. Maybe with Jim Harney, who was -- there  
21 as a Deputy Superintendent when they did an  
22 evaluation. I may have looked at it, but it  
23 wouldn't be my role to say how many people are  
24 required.

25 Q. Do you know whether the level of

1 G. Valle

2 security was different for Lieutenant Governor  
3 Paterson than it was for any other Lieutenant  
4 Governor?

5 A. I think I was told that it was a little  
6 higher because of disabilities that he had, you  
7 know, being visually impaired and stuff. I  
8 believe that they were, there was maybe a  
9 different level. I believe it varies, you know,  
10 perhaps.

11 Q. I'm going to ask you some questions  
12 about the eastern district's investigation into  
13 the Pataki campaign back in the late 1990s.

14 THE WITNESS: Can I take a two minute  
15 break? I would just like to take a two minute  
16 break, get a drink.

17 MS. MCCARTHY: Go ahead.

18 (A recess was taken.)

19 THE WITNESS: Thank you.

20 Q. You're aware that the eastern district  
21 had conducted an investigation into Governor  
22 Pataki's campaign in the late 1990s, correct?

23 A. I'm aware of, yes, the eastern district  
24 conducting an investigation involving -- I think  
25 that's the one with Parole, is that the one you

1 G. Valle

2 are talking about?

3 Q. Uh-huh.

4 A. Yes. I read about that in the  
5 newspaper, yes.

6 Q. You did more than read about it in the  
7 newspaper. You were the point person in the  
8 division of State Police for the receipt of  
9 subpoenas, correct?

10 A. Yes. On a very limited basis, but that  
11 doesn't mean that I knew about what the subject of  
12 that investigation was. As I recollect, I don't  
13 think the Assistant Us Attorney shared with me the  
14 details. They said that they had an investigation  
15 and they had specific witness that they wanted  
16 to -- so yes, I did serve with that.

17 Q. So subpoenas were sent to your  
18 attention?

19 A. Yeah. Faxed to me or mailed to me.

20 Q. And then what would you do when you got  
21 the subpoenas?

22 A. I would contact the specific witness in  
23 the subpoena and tell them we have a subpoena. I  
24 may have contacted them beforehand. I forget  
25 exactly how it occurred. The AUSA may have called



1 G. Valle

2 me and said we want blah, blah, blah.

3 Q. Was that Margaret Giordano that you  
4 were dealing with?

5 A. Yeah, that names sounds familiar. I  
6 believe that may have been her. I certainly  
7 recognize that name.

8 Q. Was it a man or a woman that you were  
9 dealing with --

10 A. I believe it was a woman. There may  
11 have been a woman, not a man.

12 Q. When you contacted the member to say we  
13 have a subpoena hear for you to testify in the  
14 eastern district grand jury and the member said  
15 what's this about, what would be your response?

16 A. Well, you're supposing that the member  
17 said what's this about. I don't necessarily  
18 recollect someone asking me that.

19 Q. Nobody asked you what it was about?  
20 They said thank you very much?

21 A. I don't recollect that someone asked me  
22 what it was about. Obviously I wasn't --

23 Q. Did you ask the Assistant US Attorney  
24 why are you --

25 A. Oh, no. No.

1 G. Valle

2 Q. -- subpoenaing our members?

3 A. Oh, no. Oh, no. I was very careful  
4 not to pry as to what was going on. Is it  
5 possible that Margaret Giordano said it relates to  
6 the Governor's detail or people on the Governor's  
7 detail, that's possible. I don't think they  
8 shared with me the nature of the investigation.

9 I was not acting as an attorney for  
10 these individuals. I was simply serving as a  
11 conduit to assist the US Attorney's Office in  
12 getting these individuals, but I specifically made  
13 a point of not trying to ask details about what  
14 the investigation involved so that --

15 Q. Why?

16 A. So I was not involved in it. It's just  
17 not appropriate.

18 Q. Why was it not appropriate? I don't  
19 understand why it wasn't appropriate for you to  
20 ask --

21 A. It's a potential criminal  
22 investigation. I --

23 Q. That's your practice?

24 A. I don't want to -- quite often if a  
25 prosecuting authority is conducting an

1 G. Valle

2 investigation, it is my practice not to ask  
3 questions making it look like I'm trying to snoop  
4 around and find out details of the investigation  
5 that, quite frankly, are none of my business. My  
6 business at that point was to get witnesses to  
7 this -- to assist the US Attorney in getting  
8 witnesses, not to be an assistant to the US  
9 Attorney or an investigator on this case.

10 Q. Well, isn't it part of your job,  
11 though, to determine whether or not the State  
12 Police has been involved in any sort of illegal  
13 activity?

14 A. If I'm made aware of legal activity,  
15 that's one thing. It's not my job to intervene in  
16 investigations conducted by a prosecutorial arm.  
17 If a prosecutorial arm has developed information  
18 regarding conduct, illegal conduct by members of  
19 the State Police, it's that obligation, their  
20 obligation to make that known to the State Police.

21 So no. I feel quite strongly about  
22 that. I'm not going to ask questions with regards  
23 to a potential grand jury investigation and look  
24 like that I'm trying to meddle in it. Absolutely  
25 not. My role in that case was to make contact

1 G. Valle

2 with certain witnesses and assist the US Attorney  
3 in getting those witnesses, being a conduit to  
4 serve those subpoenas.

5 Those individuals had right to counsel  
6 and stuff like that. That was something that was  
7 separate and apart.

8 Q. Did you ever learn that Dan Wiese was a  
9 target of that investigation?

10 A. To an extent I learned -- and this is  
11 part of the attorney/client privilege, which it's  
12 been on the record it's been waived. Jim McMahon  
13 had indicated to me at one point that the  
14 federal -- that the US Attorney General's office  
15 was doing an investigation, I think he said, that  
16 involved Dan Wiese and that he was asked, he was  
17 being asked to testify, I believe. So we had  
18 conversations with regards to that, one or two  
19 conversations.

20 Q. Did you ever at any point make any  
21 inquiry as to what the eastern district had been  
22 looking at Mr. Wiese for?

23 A. To Jim McMahon?

24 Q. No. To anybody.

25 A. No. Not that I recollect.

1 G. Valle

2 Q. Were you ever advised at any point that  
3 the eastern district investigation was done?

4 A. Not to my knowledge. Nobody advised me  
5 that it was done or completed, no.

6 Q. Do you have any involvement in  
7 disciplinary issues in the State Police?

8 A. Yes.

9 Q. When do you become involved in  
10 disciplinary issues, at what stage?

11 A. When the Superintendent's office --  
12 well, I can get them when they're completed.  
13 Superintendent's office sends them to me and seeks  
14 input. Would be the First Deputy Superintendent's  
15 office generally when it's completed, in IAB,  
16 that's internal affairs, or sometimes in the  
17 internal affairs bureau they may have a legal  
18 question in an ongoing investigation as to what  
19 legal steps could be taken in the context of the  
20 investigation.

21 Q. Are you ever consulted by the  
22 Superintendent as to whether or not an  
23 investigation, or by anybody in the State Police,  
24 as to whether or not investigations should take  
25 place of a member?

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2 A. That could be possible, certainly.

3 Q. Did anybody ever consult with you about  
4 whether or not an internal investigation should be  
5 conducted of Dan Wiese?

6 A. To the best of my recollection,  
7 absolutely not.

8 Q. To the best of your recollection,  
9 absolutely not?

10 A. Well, to the best of my recollection,  
11 no.

12 Q. I just want to understand. You said  
13 that Superintendent McMahon indicated that the US  
14 Attorney's Office was doing an investigation that  
15 involved Wiese, right?

16 A. Probably words to that effect.

17 Q. Did you have an understanding based  
18 upon what you were told by Superintendent McMahon  
19 that Mr. Wiese was of interest to the grand jury?

20 A. I'm not sure how much Jim McMahon  
21 actually knew, how much was shared with him. So  
22 my understanding of it was that it involved him,  
23 that he may very well have been the target.

24 Q. Okay. In your experience in the State  
25 Police, if the Superintendent is aware or counsel



1 G. Valle

2 is aware that a member is a target of a grand jury  
3 investigation, does that normally result in the  
4 State Police conducting its own internal  
5 investigation?

6 A. No, not necessarily.

7 Q. Why wouldn't it result in an internal  
8 investigation?

9 A. Well, because there may not be any  
10 information to develop at that point. I mean,  
11 normally what would happen is the district  
12 attorney or prosecutor conducts an investigation,  
13 conducts a grand jury proceeding. There's,  
14 perhaps, an indictment or there's information  
15 relating to misconduct, and it's then shared with  
16 the State Police. That's, in my experience,  
17 how -- that's how it would happen.

18 Q. Okay. And if I were to tell you that  
19 the Superintendent was fully aware of the nature  
20 of the allegations against Mr. Wiese, would that  
21 surprise you, given that no internal investigation  
22 was conducted?

23 A. I'm not sure what the allegations are.

24 Q. Obstruction of justice.

25 A. I don't know what information that he

1 G. Valle

2 had.

3 Q. If the Superintendent had been fully  
4 aware that Dan Wiese was the target of a grand  
5 jury investigation involving obstruction of  
6 justice, would you expect that the State Police  
7 would conduct its own independent internal inquiry  
8 into that?

9 A. It's quite possible. It would depend  
10 on the facts and circumstances. It would depend  
11 on, perhaps, conversations between the State  
12 Police and the US Attorney's Office, whether they  
13 wanted to have an investigation done at that time.

14 So I guess there would be a lot of  
15 factors. If there was a, you know, an  
16 investigation that was ongoing, it's quite  
17 possible that the prosecutor says, and I think  
18 it's happened in the past, I don't want you doing  
19 anything right now, we're handling this  
20 investigation, we don't want people running around  
21 in circles.

22 Q. Right. Well, then there would come a  
23 time when it would be appropriate for the State  
24 Police to conduct an investigation, would there  
25 not?

1 G. Valle

2 A. It's possible, depending on the facts  
3 and circumstances.

4 Q. Do you think it would be unusual for  
5 there not to be any investigation?

6 A. I don't want to characterize something  
7 as unusual not knowing a specific -- you are  
8 asking me a hypothetical without really any  
9 supporting facts. I mean, you could have a  
10 situation where a grand jury heard something and  
11 no billed it. Okay? So there is not any evidence  
12 of wrongdoing and the US Attorney or the district  
13 attorney says no, I uncovered nothing and it went  
14 to a grand jury.

15 We had members go before grand juries  
16 quite often in shootings and stuff like that and  
17 there's not an investigation of misconduct if  
18 they're cleared. So it would depend on the facts  
19 and circumstances of a specific case that this  
20 individual had and the conversations with the US  
21 Attorney.

22 Q. When you heard from the Superintendent  
23 that the investigation involved Dan Wiese, did  
24 that raise any concerns in your mind about Mr.  
25 Wiese acting as the head of the Governor's

1 G. Valle

2 security detail?

3 A. Well, I think it would be fair to say  
4 that any member of the State Police, I would be  
5 concerned. But the fact that he was head of the  
6 Governor's detail, not specifically one way or the  
7 other. I mean, it's always troubling if there's  
8 any sort of grand jury investigation.

9 Q. Well, did you have any conversations  
10 with anyone in the State Police about limiting Mr.  
11 Wiese's duties?

12 A. Not that I recollect, no. I do not  
13 remember a great deal of conversation about the  
14 situation.

15 Q. Did you know that members of the State  
16 Police had been directed to be debriefed by the  
17 Governor's counsel concerning the grand jury  
18 testimony?

19 A. No. No. No. I don't think I heard  
20 anything like that, no.

21 Q. Is that something that is a normal  
22 procedure, if members are called into the grand  
23 jury?

24 A. Not in my opinion.

25 Q. Do you think that that is an

1 G. Valle

2 appropriate thing to have happened?

3 A. Again, not knowing the facts and  
4 circumstances, I don't want to say that it was  
5 inappropriate or not under the specific  
6 circumstances. But it gets back to why, in my  
7 position, I did not interfere with the US  
8 Attorney, nor did I discuss with those, the  
9 witnesses that I was in the conduit, anything  
10 about their testimony whatsoever, period.

11 Q. You have an investigation into the  
12 Governor's campaign and the allegation, as I  
13 believe you're aware, is that promises were made  
14 to campaign supporters that in exchange for  
15 contributions, influence would be made or used on  
16 the Parole Board to get early release of family  
17 members. Is that your understanding of the  
18 general allegations?

19 A. Generally, yes. That's absolutely  
20 correct.

21 Q. And knowing those facts, do you think  
22 it was appropriate for Governor's counsel to call  
23 down members of the State Police to debrief them  
24 about their grand jury testimony?

25 A. If I was Governor's counsel, I would

1 G. Valle

2 not have done it. Put it that way. You know,  
3 based on those facts. But I don't want to  
4 characterize the actions of others as appropriate  
5 or not appropriate without being privy to what  
6 information they had or whether or not they  
7 discussed it with the US Attorney and got  
8 approval, you know. So I can't, on those facts.

9 I mean, in my personal opinion I  
10 would -- in follow-up again to your question,  
11 grand jury is involved, this is secret stuff.  
12 That's why I'm not going to be speaking to  
13 Margaret Giordano saying what is this all about.  
14 Let the prosecutorial arm do their business.

15 Q. Did Margaret Giordano give you any  
16 information that gave you concern about any  
17 members continuing in active duty?

18 A. No, absolutely not. Not that I  
19 recollect, no. I think there was only two people  
20 that she called. As I recollect, two, maybe four  
21 witnesses. I don't recollect a lot of witnesses.

22 Q. Did you know that Preston Felton was  
23 involved with Governor's counsel in debriefing  
24 grand jury witnesses?

25 A. No. No.



1 G. Valle

2 Q. And in your view, would that have been  
3 appropriate?

4 A. Again, I think it's unfair to ask me  
5 questions as to what was appropriate in a given  
6 situation that I was not part of. I just feel  
7 very uncomfortable about that. I really do.

8 Q. Did you know that Dan Wiese had taken  
9 the Fifth, asserted the Fifth Amendment before the  
10 eastern district grand jury?

11 A. I have seen that in the newspaper. I  
12 don't think anyone ever told me that with the, you  
13 know, from the US Attorney. I think it would be  
14 inappropriate for them to share that. I think  
15 that's a private proceeding. But I believe there  
16 were news reports to that extent, yes.

17 Q. Have you ever heard of --

18 A. I don't know it for a fact, though.

19 Q. Have you ever heard of a member of the  
20 State Police asserting the Fifth Amendment in a  
21 grand jury in connection with questions being  
22 asked concerning their official duties?

23 A. No, I am not aware of it. Again, grand  
24 jury proceedings are generally secret, so they're  
25 not even for the prosecutor to share that a person

1 G. Valle

2 took the Fifth Amendment. But no, I am not aware  
3 of that happening.

4 Q. Well, is it fair to say that it is an  
5 expectation of members of the State Police that  
6 they will cooperate with prosecuting agencies?

7 A. Absolutely.

8 Q. And have you ever, as counsel, heard  
9 from a prosecutor, I'm not getting cooperation  
10 from this guy?

11 A. Oh, of course. I mean, there's -- you  
12 have that on a routine traffic case, you know, I'm  
13 not getting this paperwork in time, I'm not  
14 getting this, this person failed to show up for  
15 court, you know, I'm getting a hard time getting  
16 this. Prosecutors call me sometimes, paperwork  
17 questions and delays in getting lab reports. So  
18 that's not unusual.

19 Q. So it's not unusual. When people don't  
20 do things they're supposed to do, a prosecutor  
21 complains, right?

22 A. No, I'm not saying -- you loaded that  
23 question, that people have done things, that they  
24 didn't do what they're supposed to do. Sometimes  
25 there is a legitimate reason, there is a reason

1 G. Valle

2 for the delay in paperwork. The prosecutor may  
3 call in and say looke, we're trying to get this,  
4 we need this, can you assist us.

5 Q. Does a prosecutor ever call you and say  
6 I put trooper so and so on the witness stand and  
7 they refused to answer the questions in open  
8 court?

9 A. Not to my recollection, no.

10 Q. If you were to get that call, what  
11 would your reaction be?

12 A. If I was to get that call from a  
13 prosecutor, saying that someone refused to answer  
14 questions in the courtroom?

15 Q. Yup.

16 A. Yeah, I would pass that up to internal  
17 affairs, certainly.

18 Q. There would be an inquiry, right?

19 A. Yeah. Well, I don't know that there  
20 would be an inquiry. I don't do the inquiry. So  
21 I would pass that on. I wouldn't just sit there  
22 and say oh, gee, and hang up the phone. I would  
23 pass that up to the Deputy Superintendent for  
24 internal affairs or somebody else.

25 Q. I guess what I'm unclear about here is,

1 G. Valle

2 you get information --

3 MS. MCCARTHY: Is there a problem?

4 MS. SAVITT: I think you are being  
5 very condescending to the witness.

6 MS. MCCARTHY: And I don't appreciate  
7 you sitting there shaking your head at me so --

8 MS. SAVITT: I don't appreciate the  
9 tone of the way you're asking questions of this  
10 witness.

11 MS. MCCARTHY: I'm telling him that  
12 something is unclear to me, and I will ask for him  
13 to clarify it. Do you have an objection?

14 MS. SAVITT: I have an objection that  
15 you continue to ask him questions in a  
16 condescending manner.

17 MS. MCCARTHY: I disagree with you.

18 MS. SAVITT: Well, you can disagree  
19 with me.

20 MS. MCCARTHY: Do we need to step  
21 outside for a second?

22 MS. SAVITT: Not that I'm aware of.

23 MS. MCCARTHY: This is a very  
24 interesting interview all around. That's all I  
25 can tell you.

1 G. Valle

2 Q. You had information in your possession  
3 that Dan Wiese was of interest to the eastern  
4 district grand jury, correct? You had that  
5 information from the Superintendent.

6 A. I'm saying that he spoke to me and I  
7 believe said something to the effect that the US  
8 Attorney's Office was looking at a situation and  
9 Dan Wiese may or may not have been involved. I  
10 didn't get specific facts, details, outlines of  
11 anything. No one briefed me on this.

12 Q. Did you have any discussion at all with  
13 the Superintendent about whether an internal  
14 affairs investigation should be started?

15 A. I don't recollect any conversation.

16 Q. All right. And my question to you is  
17 why not?

18 A. Because I am not aware that there was  
19 any information developed at that point. The  
20 information does not necessarily come to me. It  
21 comes to the Superintendent, it comes to the  
22 Deputy Superintendent of internal affairs.  
23 They're the ones that order and conduct  
24 investigations.

25 Q. But you just told me, in the scenario

1 G. Valle

2 where a prosecutor calls you and says -- let me  
3 just finish the question -- trooper so and so  
4 refused to answer questions. You hang up the  
5 phone and you make a referral to internal affairs  
6 in that situation, right?

7 A. Internal affairs or the Superintendent,  
8 whatever. In this case, in your case the  
9 Superintendent has it. He has it. He's the one  
10 that directs -- the Deputy Superintendent for  
11 internal affairs works for him, not for me.

12 Q. Right. But the Superintendent has told  
13 you he is a witness, correct?

14 A. Indicates that he may be a witness. I  
15 don't know that he said he is going to be a  
16 witness or is a witness, and I don't think he ever  
17 told me he was a witness.

18 Q. You have no knowledge of the  
19 Superintendent testifying in the grand jury?

20 A. I'm not certain that he ever spoke  
21 about it after the fact. I suggested that he get  
22 counsel, get independent counsel, and I think he  
23 did. And I just advised him, I said you shouldn't  
24 speak to anyone about it, speak to counsel. And I  
25 don't think he got back to me ever and said well,



1 G. Valle

2 I testified in the grand jury, I don't think.

3 Q. Does a point ever arise when you say to  
4 the Superintendent hey, whatever happened with  
5 that eastern district investigation?

6 A. I don't recollect asking him that.

7 Q. Never --

8 A. I don't recollect asking him about his  
9 testimony or about the investigation, no, I don't.

10 Q. And you had no reputational concerns  
11 about Dan Wiese continuing to act as the head of  
12 the Governor's detail when it was the Governor's  
13 campaign that was under investigation? No  
14 concerns?

15 A. It's hard to say whether I had concerns  
16 or not. What year are we talking?

17 Q. About 1998, 1999.

18 A. Yeah, so we are talking a decade ago.  
19 It's hard to characterize what concern -- I mean,  
20 obviously it may not have been a good situation,  
21 but I don't choose the head of the Governor's  
22 detail.

23 Q. Did you know that Mr. Wiese had hired a  
24 private attorney to represent him?

25 A. Yes, I did. Yes, I did. I became

1 G. Valle

2 aware of that, yes, I was.

3 Q. Did you become aware of it at the time  
4 of this happening or afterwards?

5 A. During that time, yes, when I spoke to  
6 Jim McMahon.

7 Q. Did you know that a defense fund had  
8 been established on his behalf?

9 A. That I've heard subsequently. I don't  
10 know that contemporaneously I knew that at that  
11 time. But I did know that he had hired counsel  
12 because I had heard that from Jim McMahon at that  
13 time.

14 Q. At that time Dan Wiese was an inspector  
15 in the State Police. It's my understanding that  
16 that's in the management confidential level in the  
17 State Police; is that right?

18 A. If he was an inspector at that time,  
19 which I take it you have that information, that is  
20 an MC position. That's correct.

21 Q. Well, I've got Dan Wiese's personnel  
22 jacket --

23 A. No, I believe you. That position has  
24 been a Major's position, it's been an inspector's  
25 position. I think maybe at one point it was even

1 G. Valle

2 a Colonel's position, right.

3 (One-page document was marked as Valle  
4 Exhibit-6 for identification; 12-30-08.)

5 Q. Dan Wiese is the only one who's been  
6 more than a Major. I'm showing you Valle  
7 Exhibit-6. This is Dan Wiese's cover of his  
8 personnel jacket.

9 A. An inspector position is an MC  
10 position, that's correct.

11 Q. Management confidential, right?

12 A. Correct.

13 Q. So what is the State Police's policy as  
14 far as providing counsel for management  
15 confidential members?

16 A. Counsel?

17 Q. Yes. In a criminal case, would counsel  
18 be provided by the State Police --

19 A. No.

20 Q. -- for any member?

21 A. We don't provide counsel in an  
22 individual capacity for any member, period. We're  
23 counsel to the agency.

24 Q. So the unions provide counsel; is that  
25 right, PBA?

1 G. Valle

2 A. That's up to the unions. They may or  
3 may not, depending on the facts and circumstances  
4 of a particular case.

5 Q. Is there some union that is provided to  
6 management confidentiality, that deals with  
7 management confidential positions?

8 A. No. Management confidential positions  
9 don't have any union.

10 Q. In your experience in the State Police,  
11 have there been times, other than Mr. Wiese, where  
12 people in management confidential positions have  
13 required criminal defense counsel?

14 A. It's quite possible. Yeah, it's quite  
15 possible. I'm trying to think of particular  
16 cases. I mean, Danny Wiese would have been one of  
17 them I guess, in this circumstance, perhaps. But  
18 in the past, I don't know.

19 Q. The Wiese defense fund was established  
20 on Mr. Wiese's behalf and subordinates of Mr.  
21 Wiese contributed to the defense fund. Were you  
22 aware of that?

23 A. You are telling me that as a fact?

24 Q. I'm representing that to you as a fact.

25 A. No, I wasn't aware of it. Not that I

1 G. Valle

2 recollect, no.

3 Q. Are there any concerns that you have  
4 with that having happened?

5 A. Yeah. I mean, I would be concerned if  
6 a superior in the State Police was soliciting  
7 contributions from subordinates. Then that's not  
8 a good practice.

9 Q. So is the concern the solicitation or  
10 the receipt?

11 A. It would depend on the facts and  
12 circumstances of it.

13 Q. All right. A defense fund is set up by  
14 Mr. Wiese. Somebody else is soliciting  
15 contributions on his behalf. Do you still have  
16 concerns about subordinates contributing to that  
17 fund, given those facts?

18 A. I don't think it's a good situation.

19 Q. Why not?

20 A. Because there would be implied pressure  
21 to contribute. I mean, that's why I never sold my  
22 daughter's candy bars in the office to raise money  
23 for a hockey team. She didn't actually play  
24 hockey, it was some other sport, but little league  
25 for my son. I mean, I just don't think that looks

1 G. Valle

2 good.

3 Q. Aside from appearances, are there any  
4 restrictions that you're aware of within the State  
5 Police on supervisors accepting funds from  
6 subordinates?

7 A. There may be a restriction on a  
8 supervisor getting loans, I believe, from  
9 subordinates. I would have to check the  
10 regulations, you know. I mean, frankly around the  
11 holidays people exchange gifts. So I mean,  
12 certainly a subordinate could give a gift and  
13 people give gifts around the holidays, so I don't  
14 know that there is a specific -- I have to check  
15 regulation six to see exactly what the wording is.  
16 I'm not sure off the top of my head.

17 Q. What about if I were to tell you that  
18 major contributors to Governor Pataki's campaign  
19 were major contributors to the Wiese defense fund,  
20 would that raise any issues in your mind?

21 A. As counsel to the State Police, we're  
22 talking about campaign contribution -- that's  
23 outside the realm of my operation, my job.

24 Q. You have no opinion on that? I'm  
25 asking you to look at this sort of as a whole,



1 G. Valle

2 because I know that's what you generally do as  
3 counsel to the State Police. Fair?

4 A. No. Well, no. As counsel to the State  
5 Police, as any counsel, I serve a client. A  
6 client comes to me with issues, with questions,  
7 seeking advice. I'm not responsible for every  
8 aspect, operation of the State Police.

9 Q. I'm not suggesting you are responsible.  
10 I'm asking whether there were any legal or ethical  
11 concerns that you would have -- had somebody come  
12 to you in 1999 and said Dan Wiese has set up a  
13 defense fund. The major contributor to Governor  
14 Pataki, whose campaign is under investigation, has  
15 donated \$10,000 to his defense fund.

16 Would that have caused you any concern?

17 A. I would take a look at it and I would  
18 look at the appropriate statutes and regulations  
19 and see whether or not there was any grounds to  
20 take any action or to have any State Police  
21 involvement. I mean, if somebody came to me and  
22 asked me a question, I would ask for the facts and  
23 I would get as much facts as I could, and I would  
24 do what a lawyer does, look at the books, research  
25 the law and render an opinion. And I would render

1 G. Valle

2 an opinion back to my client.

3 Q. As you sit here now, does that raise  
4 any concerns or issues in your mind?

5 A. Again, you are giving me a  
6 hypothetical.

7 Q. It's actually factually based.

8 A. I -- well, I take it for granted that  
9 it is if you are saying that. I would have to  
10 take a look at what legal issues were involved.

11 Q. What about reputational issues? You  
12 have the Governor's campaign under investigation,  
13 you have the head of the Governor's detail, his  
14 legal defense being supported by major  
15 contributors to the campaign. Any bells going off  
16 in your head?

17 A. It's, perhaps, something that would not  
18 look good for the State Police, if you're asking  
19 for a general reputational opinion, but I don't  
20 know that there's any legal violations. I would  
21 have to take a look at the law.

22 Q. Okay. We were just talking about the  
23 rank of the person that runs the Executive  
24 services detail. Are you familiar with Executive  
25 Law 215 11? I actually have a copy of it here. I

1 G. Valle

2 thought I had a copy. I will mark this Valle  
3 Exhibit-7.

4 (Multi-page document was marked as  
5 Valle Exhibit-7 for identification; 12-30-08.)

6 Q. I direct your attention to section 11.

7 MS. SAVITT: Is that the entirety of  
8 section 215 there?

9 MS. MCCARTHY: It is. Section 215,  
10 subdivision one, 11. There is a one up here.

11 Q. Yes. One 11.

12 A. Yes, I'm familiar with it. I have it  
13 right here in front of me.

14 Q. Okay. Section 215 one, subdivision 11,  
15 states that "one of the Majors shall be in charge  
16 of the detail assigned for special duty with the  
17 Governor;" is that correct?

18 A. Correct.

19 Q. All right. Is your understanding then  
20 that the head of the security detail, I'm sorry,  
21 ESD is supposed to hold the rank of Major?

22 A. Well, no, I don't agree. Supposed to  
23 hold, but can hold the rank of Major. There's one  
24 Major that's assigned here within this section who  
25 can be in charge.

1 G. Valle

2 Q. Who shall be in charge of the detail,  
3 right?

4 A. Uh-huh. Uh-huh. Right.

5 Q. Just so I understand what you just  
6 said, it can be any rank, one of which can be  
7 Major?

8 A. There is a section on this at the end  
9 of it that "such additional members as the  
10 Superintendent may deem necessary for adequate and  
11 proper administration of the New York State  
12 Police." That's subdivision 16. And that gives  
13 the Superintendent flexibility to adjust. This is  
14 a bare minimum, so to speak.

15 Q. So explain that to me. Such additional  
16 members, that would seem to imply --

17 A. Well, they have appointed additional  
18 Deputy Superintendents that aren't on this list  
19 under that subdivision.

20 Q. Are you aware that Dan Wiese is the  
21 only person who ran the Executive services detail  
22 who held the rank other than Major?

23 A. In my experience, I think that's  
24 correct. Yeah. I can't speak from before I came  
25 there, and I don't think -- I'm not sure that Gary

1 G. Valle

2 Berwick was ever an inspector or not. I'm not  
3 sure.

4 Q. He was an inspector when he was brought  
5 into headquarters.

6 A. Okay.

7 Q. And I'm going to put Valle Exhibit-6  
8 back in front of you. Mr. Wiese was promoted to  
9 Assistant Deputy Superintendent in June 25 of  
10 2000, which is after the eastern district  
11 investigation.

12 Did you know that?

13 A. Okay. According to that, yeah.

14 Q. Were you aware of that promotion before  
15 it happened?

16 A. I doubt it.

17 Q. Did you talk to Superintendent Jim  
18 McMahon about that after it happened?

19 A. I don't recollect any conversation with  
20 him after it happened.

21 Q. Did you have any concerns with the head  
22 of the Executive services detail being promoted to  
23 that rank?

24 A. No, I didn't have any concerns with  
25 regards to it. No.

1 G. Valle

2 Q. Did you know that when Wiese, Mr. Wiese  
3 retired from the State Police in 2003, he was  
4 appointed as Special Assistant to the  
5 Superintendent?

6 A. Yes.

7 Q. Did you know that was happening before  
8 it happened?

9 A. Yes. Probably, yup. At the time it  
10 happened, yes, because I was consulted by Jim  
11 McMahon.

12 Q. Can you tell us about your discussion  
13 with Jim McMahon about this?

14 A. As to the best of my recollection, Jim  
15 McMahon came to me and said Dan Wiese is retiring  
16 and the Governor, then Governor Pataki, is having,  
17 taking a trip. And I believe it was to Israel,  
18 but I'm not sure. I believe it was overseas. And  
19 it's going to be right after Dan Wiese is  
20 officially off the books or it's going to bridge  
21 the time.

22 And he said to me that the Governor,  
23 and I believe, I'm just paraphrasing, somebody,  
24 and I don't know that he said the Governor or  
25 somebody downtown, whatever, wants to ensure that



1 G. Valle

2 Dan Wiese is able to continue his protection of  
3 the Governor during this trip. And again, I don't  
4 recollect whether -- when the effective date of  
5 the trip was and when the retirement was, but it  
6 was sometime subsequent, immediately subsequent to  
7 Dan Wiese's retirement.

8 And they, quote, they, which I  
9 interpret to be the Executive Chamber, wants to  
10 have Dan Wiese accompany him and also wants to be  
11 able to have Dan Wiese carry a weapon.

12 Q. During the trip?

13 A. During the trip, or part of the trip,  
14 whatever. I guess it would depend on the  
15 legalities and the country that they're visiting.  
16 So the Governor needed Dan Wiese's security, the  
17 Governor wanted -- again, I don't want to say the  
18 Governor because it may not have been accurate,  
19 but we wanted to have -- they wanted to have him  
20 continue.

21 So under what is there authority to  
22 appoint him, I want to appoint him as Special  
23 Assistant, as a member. So I looked at it, and I  
24 believe we had this conversation, I said well,  
25 under 215 -- to be a member, you have to be under

1 G. Valle

2 215 one, one of these subdivisions, and you have  
3 such additional members as a Superintendent made.  
4 So somebody came up, when I say somebody,  
5 Superintendent, I didn't come up with the title,  
6 of Special Assistant and he was appointed pursuant  
7 to that. So they consulted me on that.

8 (One-page letter dated 4-24-03 was  
9 marked as Valle Exhibit-8 for identification;  
10 12-30-08.)

11 Q. Just so the record is clear, you said  
12 pursuant to that, and are you referring to what I  
13 have marked as Valle Exhibit-8, which is an April  
14 24, 2003 letter from Superintendent McMahon to Dan  
15 Wiese appointing him Special Assistant to the  
16 Superintendent. Correct?

17 A. Right. Yeah. And so I consulted him,  
18 and I remember saying to him that well, if that's,  
19 if that's what you want to do. I mean, this  
20 wasn't like my idea. I'm not sitting here each  
21 day thinking well, what can I do here. I was  
22 asked what possible way can this be done, and in  
23 my opinion the only way it could be done is  
24 pursuant to 215 one.

25 I mean, if the parameters are, I mean,

1 G. Valle

2 he needs to carry a gun, he needs to be a sworn  
3 member and it has to come under this section here.

4 Q. But just so I'm clear, your  
5 understanding was the reason for this appointment  
6 was for a specific trip with the Governor, right?

7 A. Yes. I believe it was Israel. I'm not  
8 positive, but for some reason Israel sticks out of  
9 my mind. And that it was for a very short  
10 duration, and that's why I think I said look, you  
11 should -- see, he was eligible for it, because if  
12 he retires, a member of the State Police can come  
13 back pursuant to, I believe it's, it's rule -- I  
14 forget which rule it is, but there is a rule that  
15 if you retire, within that year you can  
16 automatically come back.

17 Normally members would be outside the  
18 age restriction. You have to be under 35. But  
19 because Daniel Wiese was a member, he can  
20 automatically, after retirement, with the  
21 Superintendent's approval, not unilaterally but  
22 with the Superintendent's approval within that one  
23 year, come back to that position or any other  
24 position that he could be eligible to be appointed  
25 to by the Superintendent.

1 G. Valle

2 So he is free of the age restrictions.  
3 He can come back basically in the agency. So this  
4 such additional members as the Superintendent may  
5 deem necessary can appoint is a broad catchall  
6 that covers that. But I remember specifically  
7 saying but, you know, you probably should put in  
8 this at the pleasure of the Superintendent so at  
9 the end of the trip, you can terminate this.

10 So I see it, in my opinion, from my  
11 view, this was like a short-term thing. It was  
12 like two weeks, three weeks. So I think Jim  
13 McMahon asked me well, can you do a member letter  
14 with this section.

15 Q. So you drafted this?

16 A. Yeah, I think I -- I think I did.  
17 Maybe somebody else in my office did, it's  
18 possible, but --

19 Q. So you are the one who spelled his name  
20 wrong?

21 A. I don't want to get blamed for that. I  
22 will blame my secretary. Only kidding. Good  
23 thing I got my Christmas present already from her.  
24 Is his name spelled wrong? Oh, God, we spelled  
25 the Superintendent's name wrong? Well, maybe I

1 G. Valle

2 won't take credit for this letter.

3 Q. Did you ever ask the Superintendent or  
4 follow-up with the Superintendent to see whether  
5 or not he terminated that appointment?

6 A. No, I don't think I did. I sort of,  
7 frankly, forgot about it.

8 Q. Are you aware that to this day that  
9 appointment has never been terminated?

10 A. You know, I read something about that  
11 like six months ago, and I was like shocked.

12 Q. So is it fair to say then that you had  
13 no knowledge that Dan Wiese was continuing to --

14 A. No, absolutely. Yeah, absolutely --

15 Q. Let me finish the question. I know  
16 you're quick and you anticipate what I'm going to  
17 ask but --

18 A. Sorry. I will try not to.

19 Q. Is it fair to say that you had no  
20 knowledge after his retirement that Dan Wiese  
21 continued to have, exert influence over the  
22 operations of ESD?

23 A. Well, wait. There's two questions. I  
24 assumed at the end of the trip, this was fini,  
25 that at the pleasure meant for a very short



1 G. Valle

2 duration. But frankly, it's not on my radar,  
3 okay. I don't come into work each day, even back  
4 in that era, and think about Dan Wiese. I barely  
5 know the guy.

6 Q. Let me rephrase my question. Is it  
7 fair to say that you did not know that past the  
8 two week period that you believed this would last,  
9 that Dan Wiese continued to hold himself out as a  
10 member of the State Police?

11 A. I was not aware of it, absolutely not.

12 Q. And in your view, as counsel to the  
13 division of the State Police, would that have been  
14 appropriate, for Dan Wiese to keep holding himself  
15 out as a sworn member?

16 A. I would not like that at all. That  
17 would disturb me. You have asked for some  
18 opinions, and I will give you that opinion. That  
19 would disturb me and I wouldn't be happy with it.

20 Q. If I were to tell you that one of the  
21 reasons that Superintendent McMahon gave Mr. Wiese  
22 this appointment was to assist him in his job at  
23 the New York Power Authority, would that be an  
24 appropriate reason in your mind to make this  
25 appointment?



1 G. Valle

2 A. Well, again, you see, depending on  
3 facts and circumstances, I mean, that's -- I would  
4 not have the details as to what needed to be done  
5 and why they needed to be --

6 Q. Okay. Are you you aware of any other  
7 retired member who has been appointed a Special  
8 Assistant or any other sort of sworn member to  
9 continue in that mode ad infinitum?

10 A. No. I mean, we had a program for a  
11 while where retired troopers and investigators  
12 could come back for security purposes. That was a  
13 special program.

14 Q. They were compensated, right?

15 A. Right. Right.

16 Q. They were on the books of the State  
17 Police, right?

18 A. Correct.

19 Q. This would not be on the books of the  
20 State Police, right?

21 A. This would be, in my opinion, extremely  
22 unique.

23 Q. Are you familiar with a person named  
24 Art Taggert?

25 A. Yes.

1 G. Valle

2 Q. Did Art Taggert have a special position  
3 after his retirement?

4 A. Not to my knowledge. Not to my  
5 knowledge at all. Maybe an honorary position, but  
6 not to my knowledge. What type of position?

7 Q. I don't know. It's been suggested to  
8 me that this position is similar to Art Taggert's  
9 situation.

10 What can you tell me about Art Taggert?  
11 Is he a retired member?

12 A. Yes. Yup. Great guy, retired.

13 Q. Did he continue in any way to work with  
14 or for the State Police after his retirement?

15 A. Not to my knowledge. Not to my  
16 knowledge at all, no.

17 Q. Is there a position called Confidential  
18 Assistant?

19 A. Yes, but that's an actual position.  
20 It's not filled right now. It was in the past.  
21 Art Taggert, I believe, was at one point a  
22 Confidential Assistant to the Superintendent.

23 Q. And what was that role? Was that a  
24 paid, on-the-books role?

25 A. Yes.

1 G. Valle

2 Q. So it's just a position, the  
3 Superintendent wanted an assistant and he named it  
4 Confidential Assistant?

5 A. Somebody named it Confidential  
6 Assistant. I think it was in the statute at one  
7 time. I think it may still be in the statute.

8 Q. But in any event, it was very different  
9 from Mr. Wiese's appointment, is that fair?

10 A. Yeah. I mean, I think it's fair in the  
11 sense that it's -- it was a paid position. I  
12 mean, I am not aware of any Confidential Assistant  
13 to the Superintendent in an unpaid status. There  
14 was an official title, Confidential Assistant.  
15 This is different in the sense that it's, it's not  
16 listed statutorily, you know, but...

17 Q. I had asked you something before, which  
18 was a complicated question, and I'm going to try  
19 to break it down a little bit.

20 Did you know that, after his  
21 retirement, Mr. Wiese remained in contact with the  
22 heads of ESD?

23 A. No. I mean, I didn't know the heads of  
24 ESD after he left so -- as I told you, I think  
25 Gary Berwick was -- and I didn't know Gary Berwick

1 G. Valle

2 until after he left ESD. So no, I am not aware of  
3 that.

4 Q. Did you know that he stayed in touch  
5 with the Superintendent, with McMahon and with  
6 Bennett and with Felton?

7 A. Yeah, I may have heard from them that  
8 oh, I heard from Danny Wiese or spoke to Danny  
9 Wiese. I mean, you know, it's not surprising that  
10 people keep in touch with people. I mean, I think  
11 Preston Felton knew Danny Wiese. I think they  
12 worked together.

13 I didn't know Danny Wiese. I don't  
14 know that I spoke to Danny Wiese much at all. So  
15 yeah, I mean, I've heard from people that oh, I  
16 spoke to Danny Wiese, but I don't know that that  
17 would be unusual.

18 Q. So it wasn't anything that you observed  
19 to be out of the ordinary?

20 A. I didn't hear a lot about it. I mean,  
21 I don't know, if it happened, how often it  
22 happened, you know.

23 Q. One other question about other --

24 A. I recollect, just to answer your  
25 question, Danny Wiese one time calling when he was

1 G. Valle

2 with the Power Authority and he wanted to see if  
3 we could have State Police dog -- he didn't call  
4 me, this came through somebody else -- State  
5 Police dog. They had some drug issue or whatever  
6 and they wanted to see if State Police dogs could  
7 search for drugs, and that didn't happen.

8 Q. You waited on --

9 A. Yeah, I wasn't particularly keen on it.  
10 I didn't want to, you know, necessarily get in  
11 there. And I remember saying well, if we come up  
12 with drugs and there's going to be arrests, and I  
13 don't know that it's an appropriate use under the  
14 circumstances, I would have to see it, and then I  
15 never heard anything more about it.

16 So I don't know that I officially  
17 jinxed it or nixed it, I should say. I just  
18 wanted to find out more information about it.

19 Q. Did you talk directly to Mr. Wiese  
20 about that?

21 A. No. No. I don't think I spoke to him  
22 very often at all.

23 Q. Do you know who you spoke to about it?

24 A. It may have been Gary Berwick. It may  
25 have been in that time when Gary Berwick was

1 G. Valle

2 there. I'm not positive, but it may have been  
3 him.

4 Q. Is there a person named Ross who was a  
5 Special Assistant, R-O-S-S?

6 A. Yeah. Special Assistant for labor  
7 affairs.

8 Q. What was that position? Was that a  
9 paid position?

10 A. Yes. Yeah. It's a position also that,  
11 I guess, was -- it's under 215. It's not listed  
12 in 215, but it's one of those other positions.

13 Q. Okay.

14 A. And that is a member position too.

15 Q. All right. Are you familiar with the  
16 State Police's arrangements with NYPA to share  
17 aircraft?

18 A. Yes. Yeah. To some extent. Generally  
19 speaking, yeah.

20 Q. And did you have any involvement in  
21 drafting or creating the memorandum of  
22 understanding?

23 A. Right. My office did, yes. Some  
24 involvement. I think it was drafted originally by  
25 the Power Authority, and I think they had outside



1 G. Valle

2 counsel because there were FAA issues, as I  
3 recollect. Specific -- there's issues specific to  
4 aircraft that are a specialty with the Federal  
5 Aviation Administration that, you know, my office  
6 didn't have the expertise.

7 But yes, there was, and I did have some  
8 conversations with the attorneys for the Power  
9 Authority. So I had some involvement, yeah.

10 Q. Do you have any understanding as to the  
11 origin of that agreement, whose idea it was and  
12 where it came from?

13 A. No. As I understood it, as it was  
14 explained to me, and I don't know who explained  
15 this or it was collectively explained to me, the  
16 Power Authority was buying a new aircraft and  
17 they -- but they didn't need an aircraft  
18 full-time, and the State Police was going to have  
19 use of that aircraft.

20 And the way it was going to work is  
21 that Power Authority was going to buy the aircraft  
22 but they could hangar it with the State Police.  
23 The State Police would hold onto it, and there  
24 would be this mutual use. And if State Police  
25 needed it -- primarily, as I recollect, it was for

1 G. Valle

2 Executive transport of the Governor. That's the,  
3 you know -- it's a passenger plane. It's not like  
4 a plane that looks for drugs or anything like  
5 that.

6 So it was sort of like sharing this  
7 aircraft, and the State Police were going to have  
8 use of this aircraft for transportation of  
9 Executive members.

10 Q. And was that, in your opinion, a good  
11 arrangement? Is that something that was going to  
12 beneficial for the --

13 A. Well, from the state's perspective,  
14 yeah. We're going to get an aircraft at no cost.  
15 I believe it was a new aircraft, as I recollect.  
16 I'm pretty certain it was a new aircraft, and we  
17 were going to have use as we needed it, or 50  
18 percent of the use for providing hangar space. So  
19 yes, from the state perspective, it was good.

20 Q. Do you know whether, after Dan Wiese  
21 went to the New York Power Authority, he had any  
22 involvement in the plane arrangement?

23 A. I don't recollect -- I don't recollect  
24 him being involved in this aircraft business.

25 Q. Do you know --

1 G. Valle

2 A. I mean, not that it was me.

3 Q. Did you personally deal with NYPA or  
4 did Darren O'Connor or somebody else did it?

5 A. Darren, Darren, I think, to some extent  
6 was involved in the actual going back and forth.  
7 I did have conversations at some point with the  
8 attorney for NYPA, I believe. I don't think  
9 anybody else. I forget the attorney's name.  
10 Counsel for that, but I just -- I don't recollect  
11 his name. And maybe one other person with NYPA.

12 Q. Are you familiar with an incident that  
13 happened on December 2, 2005 at the home of  
14 Congressman John Sweeney?

15 A. Well, I'm not familiar with the  
16 incident. I'm familiar with the reports and the  
17 paperwork. I don't have any personal knowledge of  
18 that incident.

19 Q. Do you recall when it is you became  
20 aware of that incident?

21 A. Probably sometime approximate to the  
22 election of, what, '06, November of '06, the  
23 re-election I guess.

24 Q. Do you recall --

25 A. Re-election campaign I should say.

1 G. Valle

2 Q. Do you recall there being FOIL requests  
3 pertaining to that incident prior to the election  
4 in November of '06?

5 A. Yes.

6 Q. And were you involved in handling --

7 A. Yes.

8 Q. -- or in giving your legal opinion on  
9 those FOIL issues?

10 MS. MCCARTHY: I think she's just  
11 telling you to let me finish my questions.

12 THE WITNESS: I'm sorry. I apologize.

13 Q. So yes, you were?

14 A. Yes.

15 Q. Did you have any conversations directly  
16 with Superintendent Bennett about the incident  
17 report that was created in connection with --

18 A. Yes.

19 Q. -- the Sweeney incident?

20 A. I'm doing it again.

21 Q. Yes? So can you tell us about that  
22 conversation or those conversations?

23 A. Yes, I will. As I recollect, he called  
24 up and asked me to come over to his office, and I  
25 went over there. And I think Deputy

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2 Superintendent Stephen Cumoletti, who was there  
3 too -- I think he called a meeting that night. He  
4 said I want to see something. So it was then  
5 Deputy Superintendent Steve Cumoletti, in charge  
6 of administration, myself. I think there was -- I  
7 figured this was going to come up, so I was trying  
8 to think about this.

9 I think Darren O'Connor may have been  
10 at the meeting with me. I'm not sure and I don't  
11 want to say that. I think there was a fourth  
12 person in the meeting, I'm virtually certain, but  
13 perhaps not.

14 So Superintendent Bennett speaks to  
15 Steve Cumoletti and I'm there and he says what is  
16 going on with this, with these reports, you know.  
17 I think it's important to note that at that point  
18 there were reports supposedly leaked that the news  
19 media was referencing that indicated a domestic  
20 violence incident at this individual's house, and  
21 the media was saying that they had copies of this  
22 report, from named sources.

23 And they were trying to authenticate  
24 the report, and it was a media frenzy. And I  
25 believe there were people from, I think, national

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2 media down in the lobby with copies of reports  
3 asking our press officer, can you authenticate  
4 this report. So that's the setting for this  
5 meeting. There were these, what I call, bootleg  
6 copies of an incident report or whatever out  
7 there.

8 We, I guess, at the same time were  
9 handling a FOIL case with one of the Albany  
10 newspapers, and we had refused to release these  
11 documents based on privacy issues, which is  
12 consistent with our policy. And I think it's a  
13 very good policy and I feel very strongly about  
14 it.

15 So we were engaged, and I don't know  
16 that we were engaged in actual litigation at that  
17 point or what in that time frame, but in any  
18 event, so Wayne Bennett calls this meeting and he  
19 says to Steve, what is it with these reports, how  
20 are these reports leaking out and who is leaking  
21 these reports.

22 So Steve Cumoletti, sort of crestfallen  
23 about it, says well, we have this problem with  
24 this new SJS system. It stands for spectrum  
25 justice system, I believe. And this is a



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2 relatively new system that takes paper documents  
3 of the past and starts to record them  
4 electronically, and I still don't have a great  
5 understanding of it. Steve Cumoletti is an expert  
6 on it.

7 So he says well, what's happening is  
8 people are accessing it off SJS, and I guess  
9 that's where -- and then handing them to the  
10 media. And Bennett says to him well, can we  
11 figure out who's accessing it, who's leaking these  
12 reports? These shouldn't go out. And I remember  
13 saying to Steve, can't we control our documents?  
14 We are here in a FOIL case here and the stuff is  
15 flowing out like a flood.

16 He says no. He says anybody can access  
17 it and we can't track it. And I specifically  
18 remember saying to him, anybody can access this?  
19 You got to be kidding. I said like any person  
20 sitting at a desk, secretary, car mechanic out in  
21 Buffalo, New York can just click up, get this  
22 report of a document that we consider to have  
23 privacy issues, print it out? And not only can  
24 they do that but we can't even find out who  
25 printed it out and --

1 G. Valle

2 Q. He meant anybody in the world can  
3 access it?

4 A. No. I'm sorry, I should -- anybody  
5 within State Police. Anybody with a computer  
6 that's hooked up with -- and that's virtually  
7 anybody with the intranet, you know, the internal  
8 State Police. So he says yeah, anybody can do it,  
9 anyone, any people sitting outside, you can do it.  
10 I don't even know how to get on it.

11 So Bennett says, you know, that's  
12 amazing. How could we come up with a system, how  
13 could we have a system of arrest reports and  
14 incident reports that's so unsecure? And Steve  
15 says well, that was part of the problem with SJS,  
16 you know, with the DCJS, and it was sort of put  
17 upon us and I brought this to the attention of the  
18 prior Superintendent, but we needed to get on  
19 board with the system and there wasn't money for  
20 the security and we're working on it and we're  
21 trying to do fixes and stuff like that.

22 But Bennett was, you know, angry. He  
23 says this is ridiculous, I can't believe we have a  
24 system like that. And I was horrified,  
25 personally. I mean, I thought it was despicable

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2 that these reports were being leaked out. I mean,  
3 for any member of the State Police to take an  
4 official document and leak it out with no  
5 authority to do so is just deplorable, in my  
6 opinion, and especially when it comes to terms of  
7 this type of incident with domestic violence.

8 I mean, all I could see is that this is  
9 going to deter some victim down the line of  
10 calling the State Police when there's a legitimate  
11 fear of violence and say oh, if I call up, this is  
12 going to be in the newspaper, you know. If you  
13 say the spouse of a town supervisor or some local  
14 politician or whatever, you're going to think  
15 twice. And I, for the week beforehand, saying  
16 what is the public thinking. This is just  
17 despicable.

18 And then the allegations are that it's  
19 being done for political purposes, to effect this  
20 election campaign, and that's political. You  
21 asked my definition of political before, that's  
22 political.

23 Q. The distribution of the report --

24 A. Sure. Well, to further the election or  
25 re-election of a person. I mean, that's politics

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2 with a capital P, pure and simple hardball  
3 politics, and it's disgusting. So I remember  
4 saying to Steve, I can't believe it, we're  
5 fighting in court here and this stuff can go out  
6 the back window.

7 And at that point I was at a symposium  
8 hosted by Judge Kaye and the Times Union chief  
9 editor and I'm speaking about a specific topic  
10 with other journals and stuff like that, and at  
11 the end I'm besieged by saying is this legitimate,  
12 did you people go to John Sweeney's house, is this  
13 a bootleg report.

14 Q. When was that?

15 A. I think it was Halloween of that year,  
16 October 31.

17 Q. '06?

18 A. Yeah. But then I kind of left  
19 Syracuse.

20 Q. I just want to try to focus you on  
21 certain facts, because the first time this report  
22 is actually referred to as being in the possession  
23 of the press is October 31 of '06.

24 A. Uh-huh.

25 (Multi-page document was marked as

1 G. Valle

2 Valle Exhibit-9 for identification; 12-30-08.)

3 Q. And I just want to show you, just so  
4 that -- I want to make sure you're clear on the  
5 chronology. I'm marking as Valle Exhibit-9 a  
6 document provided by the State Police to us, which  
7 indicates that the document was removed from the  
8 system on December 15 of '05.

9 A. Uh-huh.

10 Q. So is it your recollection that as of  
11 December 15 of '05 the press already had copies of  
12 the report?

13 A. Yeah, that doesn't jive.

14 (Times Union article was marked as  
15 Valle Exhibit-10 for identification; 12-30-08.)

16 Q. I don't want you to accept my  
17 representations when I have, actually, proof here.  
18 Valle-10 is a Times Union article dated November  
19 1, '06, which reports the incident, and I thought  
20 it said something about having been reported the  
21 day before.

22 A. I mean, as I recollect, the document  
23 surfaces like a week or two before the election.  
24 Right. Because I remember when I'm out there  
25 Halloween, I'm being asked by the Times Union

1 G. Valle

2 editor is this legitimate. That's when the  
3 concern --

4 Q. All right. So the incident is December  
5 2 of '05. Just turning to the first, second page  
6 of Valle Exhibit-9, let's see, it's 12-2-05. And  
7 this document, do you remember ever seeing this  
8 document? This is the actual handwritten --

9 A. Yes. I believe I do later on because I  
10 get involved in the FOIL thing.

11 Q. So this is the actual handwritten  
12 report --

13 A. I believe it is.

14 Q. -- with narrative about what happened.

15 A. Uh-huh.

16 Q. Then there comes a time when the  
17 report -- and this is -- going further on into  
18 this exhibit, this is the typed version of that  
19 handwritten report.

20 A. Right. Right.

21 Q. And then there is this report, which is  
22 "aid assists a citizen."

23 A. Uh-huh. Uh-huh. Uh-huh.

24 Q. So I want to ask you --

25 A. Yeah, this I don't think I ever saw,



1 G. Valle

2 actually, the assists citizen version.

3 Q. The initial conversation what you had  
4 with Superintendent Bennett, it's your  
5 recollection, was that meeting in his office with  
6 Steve Cumoletti and perhaps another person? Is  
7 that your recollection, that's your first  
8 conversation with the Superintendent about this?

9 A. Yeah. My recollection is that, that  
10 when we had that meeting, there was stuff out  
11 there about that. That's, you know -- that's why  
12 I specifically remember him saying well, how are  
13 these -- how is this getting out? Okay. It  
14 wasn't like we don't want this to get out, it's  
15 out.

16 That's why I remember saying to Steve,  
17 you can't figure out where these are coming from?  
18 You know, to me see, this date, that doesn't seem  
19 to make sense to me, as far as the meeting being  
20 in like '05.

21 Q. The date, the computerized date on the  
22 bottom of this aid assist is 12-15-05. I'm just  
23 trying to orient you.

24 A. I appreciate you doing that because I'm  
25 trying my best to try, and I'm trying to date that

1 G. Valle

2 meeting and I can't, okay. I remember the meeting  
3 specifically. I remember specifically -- best of  
4 my recollection, we are talking about this thing  
5 out and Bennett saying how is this thing getting  
6 out, how did it get out, can we figure out where  
7 this is coming from.

8 Q. Is it possible that at that time it was  
9 just the information that was out as opposed to  
10 the report?

11 A. That's -- that's possible, yeah.  
12 That's possible. I mean, maybe if the report  
13 itself was -- it was a real mess. I mean, it was  
14 just a real -- talk about my feeling of State  
15 Police, you know, reputation, this I was involved  
16 in, okay, and I felt strongly about because  
17 there's information being, quote, leaked. Then  
18 there's reports, then there's people saying well,  
19 you're changing the reports.

20 It was like it was going back and forth  
21 and it was all around the election and the State  
22 Police are like in the center of this thing. It  
23 was ridiculous.

24 Q. All right. Did you know in December of  
25 '05 that Superintendent Bennett had any sort of

1 G. Valle

2 relationship with John Sweeney?

3 A. No. I don't really know to this day --

4 Q. To this day?

5 A. -- what, if any, relationship he had.

6 I mean, it wouldn't be unusual. The guy is a

7 Congressman. But what relationship, personal or

8 otherwise, they had -- he never indicated to me, I

9 know Congressman Sweeney. You know, to me it was

10 irrelevant.

11 Q. Even if he had had a relationship with

12 Congressman Sweeney, it would have been irrelevant

13 to --

14 A. Well, the issue of this paperwork going

15 out, no matter who it was, this is State Police

16 paperwork involving, you know, as I said, an issue

17 that I'm very sensitive to. Didn't matter who it

18 was, you know.

19 Q. So you have this meeting. What is

20 discussed -- the discussion is how did this get

21 out, what can we do?

22 A. How did this get out. And again, I

23 can't date this meeting, but I'm telling you I

24 remember the meeting and I remember it fairly well

25 because it was sort of shocking. So as I said,

1 G. Valle

2 Bennett goes through this, what's going on here.  
3 Steve Cumoletti is there saying we got a problem,  
4 we don't have security, we got pushed into going  
5 into SJS, but we're looking. And he gets all  
6 technical and, you know, we lose him within a few  
7 minutes.

8 So there's technical things maybe down  
9 the line he could do it, but that's irrelevant, as  
10 I recollect that meeting being. So I remember  
11 being, questioning him. So then at a certain  
12 point Bennett says well, on this SJS, can you  
13 block it or something, can we block access or  
14 something so that this stuff isn't getting out?

15 And Steve says, you know, well, you  
16 know, I'm not sure you can change -- so Bennett  
17 says well, can you -- the head notes there in SJS,  
18 instead of saying domestic incident, can you make  
19 it more mundane so that it doesn't disclose what  
20 that is, because we do have a privacy interest  
21 here.

22 So I remember saying specifically, I  
23 said look, look, the document should remain the  
24 same. These documents should not be changed. I  
25 don't know what these electronic head notes stuff

1 G. Valle

2 like that. I said what I would prefer be done is  
3 that on this SJS system that you have here, just  
4 put a thing, for access to this document, see so  
5 and so, and then refer them to the records -- I  
6 think I said have it referred to the records  
7 access office. Just make copies of these  
8 documents, let's make hard copies, protect them  
9 and put a, a ban up there to say for access to  
10 this document, do this, and we would have them  
11 preserved.

12 And that doesn't fly. Somebody says  
13 no, no, no, that's -- either -- I don't know  
14 whether Steve Cumoletti said no, you can't do  
15 that, it can't be done, or somebody else, the  
16 other person maybe being Superintendent Bennett,  
17 saying no, that's just going to draw more  
18 attention to it, you know.

19 So the decision is made there then to,  
20 on the electronic headings of these things that  
21 you just showed me, that you just said the  
22 incident, whatever it's called. And I remember I  
23 said a few times look, the documents have to stay  
24 the same. We are not changing these documents as  
25 far as what the documents state. And if there's



1 G. Valle

2 any FOIL request, that we're going to honor -- the  
3 documents as they're originally written are going  
4 to be the documents.

5 But, you know, whatever this electronic  
6 heading business is, it's just going to -- you  
7 know, I mean, I understand what, you know --  
8 Bennett was upset, and I think understandably so,  
9 that this stuff was just being out and we are in  
10 the middle of this -- not nonsensical thing. This  
11 is a very serious thing, and having all these  
12 accusations so...

13 I remember I spoke to Steve. I said  
14 take notes, you know, document what you have to  
15 do. I wasn't comfortable with it but -- and I  
16 didn't really understand this SJS system, but I  
17 wanted to make sure that we had -- in my office,  
18 we had the documents because we were involved, I  
19 think, with the Times Union at that point, and I  
20 think Darren had at least some of the documents,  
21 and that they were preserved, you know.

22 And I made sure, personally, that the  
23 integrity of those documents were maintained to  
24 the agency.

25 Q. Can you just explain what you were



1 G. Valle

2 uncomfortable with? Was there a resolution  
3 ultimately?

4 A. No. Having this electronic thing here.  
5 Look, the Superintendent is the custodian of all  
6 the documents. They're the Superintendent's  
7 documents, they're not my documents. And things,  
8 you know -- the Superintendent has the authority  
9 to make changes to stuff.

10 But I was not comfortable with this  
11 electronic heading saying one thing and then the  
12 original document saying another thing. It just  
13 added, which it ultimately did in the press, then  
14 people accuse well, now you're covering, you're  
15 changing it in favor of Sweeney. There were  
16 accusations it was released against Congressman  
17 Sweeney. It was in the middle. You couldn't win.

18 To me, the tragedy of it was to  
19 potential victims in the future of domestic  
20 violence, and this was going to have a chilling  
21 effect, because we have a very strong policy  
22 that -- unlike if we make an arrest at a location,  
23 an arrest is a public record. If we're called by  
24 a family for police assistance, and sometimes it's  
25 maybe a problem with a teenage child, someone

1 G. Valle

2 becoming violent or threatening to kill  
3 themselves, it's certainly domestic violence, and  
4 we don't make an arrest and we're there to  
5 preserve the peace and to save a life, we don't  
6 want someone not making that call because they're  
7 afraid it's going to be out in the newspaper,  
8 whether it's their child, whether it's their  
9 spouse.

10 That's what horrified me about it.  
11 That was just so contrary to our mission to  
12 protect and serve the public. I was sick about  
13 it. And yet --

14 Q. Did it occur to you that it might have  
15 been known that the State Police responded to the  
16 Sweeney house simply because of lights and sirens,  
17 that somebody in the neighborhood might have seen  
18 the State Police coming to the house?

19 A. That's, of course, possible, but at a  
20 certain point, you know, the -- the allegations as  
21 to what it is involves, and more and more it seems  
22 like it's leaking out, you know, dispatcher notes,  
23 whatever. So yeah, somebody can say the police  
24 came to our house. We can't stop that.

25 We're not going to pull up, you know,

1 G. Valle

2 in a plainclothes car and with no -- and, you  
3 know, come out in civilian attire. We can't hide  
4 that. But we can certainly protect the details of  
5 the reason we came. You know, just seeing a  
6 police car pull up to a house is different from  
7 getting any details.

8 Q. Just so we're clear on the record, the  
9 State Police policy when there is no arrest made,  
10 if there is a FOIL request, what would be provided  
11 in response? If you have got this document which  
12 says --

13 A. Yeah, we would redact. We have court  
14 cases on this. We have two or three court cases  
15 on this. We have been successful because -- yeah,  
16 we would redact virtually all identifying  
17 information so you wouldn't know the nature of it,  
18 you wouldn't know, you know, the location and  
19 stuff like that.

20 I mean, we may put in location and  
21 stuff like that. We would have to take a look at  
22 the document and see whether redaction is  
23 appropriate or withholding of the entire document.  
24 Certainly like a domestic incident report, well,  
25 you are going to have to withhold this. You can't

1 G. Valle

2 redact it. It says domestic incident at the top,  
3 so that's not particularly good.

4 But we had this issue. We feel  
5 strongly about it. We feel that the law is  
6 appropriate. I mean, under the CPL, you know,  
7 documents are sealed if, if an arrest is  
8 terminated in favor of the accused or even if the  
9 DA decides not to prosecute after an arrest. So  
10 certainly something where no arrest is made should  
11 be kept confidential, and certainly the courts  
12 have agreed.

13 Q. Do you recall what State Police -- it's  
14 my understanding there were a number of FOIL  
15 requests starting on December 15th.

16 A. Yeah. There were more than one, I  
17 believe, correct.

18 Q. Do you know what the response was?

19 A. Well, yeah. We did not turn over the  
20 documents or --

21 Q. Even redacted?

22 A. Yeah, I don't think we turned over  
23 redacted documents. I'm not positive about that.

24 Q. Was there any difference in the way  
25 these FOIL requests were handled as opposed to

1 G. Valle

2 other FOIL requests for similar --

3 A. No.

4 Q. -- reports?

5 A. Up until a point.

6 Q. Explain that.

7 A. Okay. Up until a point. Then I get  
8 called, probably like days before the election,  
9 okay, by the attorney for John Sweeney. And then  
10 prior to that -- and again, this was big in the  
11 newspapers, it's on television, and I read that I  
12 think the attorney for him said, you know, that  
13 the newspapers are saying why aren't you releasing  
14 the paper, you know, the document.

15 And then at a certain point the  
16 Congressman or his attorney says we're going to  
17 get the document from State Police and release  
18 them ourselves, we're going to do it. You see,  
19 because, you know, from our perspective, if the  
20 FOIL request is from the parties involved in the  
21 incident, themselves, and both parties, then  
22 there's no privacy interest, if they waive their  
23 privacy interest.

24 So that would happen if a neighbor's  
25 complaint -- we have the same policy if two



1 G. Valle

2 neighbors have a dispute with each other. There's  
3 no arrest. But if both members say we waive  
4 privacy, same thing. And domestic incident, if  
5 both parties waive privacy, we will release it.

6 So somehow he calls me up and sends a  
7 me a letter from his attorney, calls me up and  
8 says can we get these reports, we will waive the  
9 privacy issue, what do you need. I said well, we  
10 need a specific waiver of privacy for both of you,  
11 and if you get that, we will take care, get it  
12 out. And I'm just saying to myself just clear the  
13 air of this, get the darn thing out and they're  
14 out and we're not in the middle of this anymore.

15 So he says okay, I will get what you  
16 need, and he then forwards, you know, the releases  
17 to me. And I get ahold of the documents and I  
18 want to make sure that they are the original  
19 documents. And I make sure -- and I believe I  
20 worked with Darren on this too. I think, you  
21 know, he's helping me, because he has the  
22 documents, I guess. Because we had them in our  
23 office because we have the court case. So we've  
24 already had them.

25 And working with Darren, they pay the  
Precise Court Reporting



1 G. Valle

2 fee and everything and get these documents and  
3 that's it. And I just -- my, my personal  
4 commitment was to make sure that the documents  
5 were the original documents.

6 Q. Do you know whether they were provided  
7 with this document, the aid assist?

8 A. I don't think so.

9 Q. Because that was not an original  
10 document, right?

11 A. Yeah. I mean, to me, I always saw this  
12 electronic thing as sort of like a protection of  
13 that document. Sort of, it was keeping the  
14 document there, but because this thing was so  
15 accessible, it was not, you know, the true  
16 document. I didn't see this thing even as, you  
17 know --

18 Q. Did you ever -- I mean, when is the  
19 first time you saw this document, the aid assist  
20 document?

21 A. I'm not sure. I don't know that I ever  
22 saw it before.

23 Q. Seeing it now, is this what you  
24 expected to happen in the SJS system?

25 A. Well, I think now we're, you know -- I

1 G. Valle

2 think probably now, if you spoke to people in SJS,  
3 is they probably have taken steps so that these  
4 categories -- I remember seeing something about  
5 changing the categories. So, you know, whether  
6 that's now the -- that could be now something that  
7 became, in light of this situation, something that  
8 now is utilized. I don't know. You know, I don't  
9 work with SJS or deal with those codes.

10 Q. My question is, is this what you  
11 expected to come out of that meeting with Steve  
12 Cumoletti and the Superintendent, that a document,  
13 a new document would be created with a different  
14 incident type with all of the other information  
15 redacted?

16 Because you will see that the only  
17 thing that's here is the troop. It's got the,  
18 what is it, ORI or some number, the case number,  
19 and the date and time. But the location is gone,  
20 other than it's in Clifton Park Town, so that the  
21 address is missing, the complainant is missing.

22 A. You know, frankly, I saw this as a  
23 temporary thing. I mean, I thought the original  
24 document was going to be incorporated. And I  
25 remember at one point Darren and I discussed it,

1 G. Valle

2 and I said oh, remember that thing. I said, you  
3 know, maybe we should -- maybe I should go, and he  
4 said well, we still got the FOIL case going on  
5 so...

6 Q. Maybe I should go and what?

7 A. And see what the story is on this  
8 document. This was months -- it was sort of after  
9 the fact. And again, you go onto different  
10 things, you know. My office, we have a lot of  
11 legal work that's done, and then we move on and  
12 stuff like that.

13 I just sort of assumed that at some  
14 point this may be referred back or it would go  
15 back to what we decide to do, you know,  
16 perspectively in these type of cases. I certainly  
17 hoped the security issue was fixed.

18 Q. Okay. I'm still trying to understand,  
19 though, what did you understand was going to be  
20 done in the SJS system, if not this, aid assist?

21 A. Oh, you mean at that meeting?

22 Q. Yes. At that meeting was there a  
23 resolution or a proposal that was presented to you  
24 and the Superintendent about how to deal with the  
25 document in the system?

1 G. Valle

2 A. I said put a block. Just say for  
3 access to this document, see so and so, and then  
4 somebody said no, that's not going to work. Do  
5 this, we will change this. I remember somebody  
6 saying, okay, aid assist. Take that domestic  
7 violence out. And frankly, I wasn't --

8 See, I thought maybe that this was all  
9 you got when you got on it, that you can block the  
10 rest of that document. So I don't know whether  
11 they took this out or blocked that or what, how  
12 that SJS works. There's like head notes and then  
13 there's the documents themselves. Like the DIR  
14 isn't even on the SJS.

15 Q. There is a note on the front. Do you  
16 recognize that handwriting, on Exhibit-9? Is that  
17 Lori Wagner?

18 A. I don't recognize the handwriting.  
19 It's her name, but --

20 Q. And then it says "per Colonel  
21 Cumoletti, copy of SJS," and she gives a number  
22 attached, "to be held for administrative inquiry  
23 and to be reentered --

24 A. Reentered, yeah.

25 Q. -- upon completion."

1 G. Valle

2 A. I seem to remember that it was, it was  
3 going to be re, put back in or something like  
4 that, that this was the hold. And I seem to  
5 remember it much more, closer to the, you know, to  
6 '06.

7 Q. But that term "reentered" indicates  
8 that it's been removed, right, that the document  
9 has been removed?

10 A. I guess so. I'm not familiar with the  
11 SJS system. I don't know electronically how this  
12 stuff, you know -- I'm used to the hard copies of  
13 the papers, and there is this electronic head  
14 notes they had, incident types. And I can't even  
15 get on SJS, so I don't even know the details of  
16 it.

17 So I guess it lists the thing, and then  
18 to take further steps to get documents, you have  
19 to do something. I'm not sure what she means by  
20 that.

21 Q. Do you know whether, prior to the  
22 report becoming public on October 31 or November  
23 1st of '06, whether Congressman Sweeney had been  
24 informed that the document had been changed in the  
25 system?

1 G. Valle

2 A. No, I have no knowledge of that.

3 Q. Do you remember, after the report  
4 became public, that Mrs. Sweeney made a statement  
5 to the press saying "the police report is false  
6 and we are calling on the State Police to release  
7 the true report"?

8 A. I -- well, yeah, I remember a lot of  
9 people saying it's a false report, it's an  
10 inaccurate report.

11 (Two-page document dated 11-2-06 was  
12 marked as Valle Exhibit-11 for identification;  
13 12-30-08.)

14 MS. MCCARTHY: We can take a quick  
15 break. I will just put this in front of you so  
16 you can see that before we go on break.

17 (A recess was taken.)

18 MS. MCCARTHY: Back on the record.

19 Q. I have marked as Valle Exhibit-11 a  
20 statement issued. It's a Sweeney press statement  
21 by "Sweeney for Congress" in which Gayle Sweeney  
22 states "the incident report that has been given to  
23 the press is untrue. The real incident report has  
24 nothing in it like the salacious words in this  
25 concocted document."



1 G. Valle

2 And John Sweeney says "the report is  
3 false and there is no trust in the State Police.  
4 There was no domestic violence, and like my wife,  
5 I call on the State Police to release the true  
6 report."

7 Were you aware that those statements  
8 had been made by the Sweeney's?

9 A. Probably, yeah. I mean, I don't think  
10 I saw this press release, but I --

11 Q. It was reported in news articles too  
12 so --

13 A. Oh, yeah.

14 Q. Did that strike you at that time that  
15 they were claiming that the report was false?

16 A. I remember saying to myself what report  
17 are they looking at, you know.

18 Q. Did it give you any reason to think  
19 that they might have knowledge of the sanitized  
20 report?

21 A. Possibly, or just that they were, you  
22 know -- just knowing that we were not FOIL'ing it,  
23 that our policy was, you know, that it was public  
24 knowledge, that we were not FOIL'ing the report,  
25 but maybe they were saying that hey, it's just,

1 G. Valle

2 you know -- that no one's ever going to see the  
3 real report. Well, I don't know. I don't want to  
4 get into their mind what they were saying, what  
5 the reason was --

6 Q. I want to get into your thoughts at  
7 that time.

8 A. I'm just saying that the people are  
9 everywhere, true report, false report, leaked  
10 report. It's like a circus. So you want to talk  
11 about the integrity of the State Police? At that  
12 point I was going to be the integrity of the State  
13 Police and when that report got out properly, it  
14 was going to be the original report that was done.

15 Q. Did you have any -- you became aware, I  
16 believe --

17 A. And I don't think Wayne Bennett had any  
18 problem with that, because I think I may have even  
19 told him, I am releasing that report, and he said  
20 fine.

21 Q. You released it to their attorney,  
22 right?

23 A. To the Sweeney's. To the Sweeney's,  
24 yeah.

25 Q. It was never released by them, right?

1 G. Valle

2 A. No.

3 Q. So they got the true report, right?

4 A. You're asking me to speculate.

5 (E-mail dated 3-7-06 was marked as  
6 Valle Exhibit-12 for identification; 12-30-08.)

7 Q. I'm going to show you what's marked as  
8 Valle Exhibit-12, an e-mail to you from Darren  
9 O'Connor dated March 7, '06. He says "we have  
10 another FOIL request from the Glens Falls Post  
11 Star for all blotter information for December 2,  
12 2005. The Sweeney entry appears and would  
13 normally be given out. The problem is that the  
14 entry is not true."

15 And then he asks you "the question is  
16 whether we are on firm ground in leaving the SJS  
17 entry as is. How would you like us to deal with  
18 this?"

19 A. See, this -- seeing the date of this, I  
20 think my recollection is refreshed in that there  
21 was some -- up north there is sporadic stuff about  
22 a report existing or information prior to the  
23 election. I think the actual reports, you know,  
24 get leaked much closer to the election, but I  
25 think this is correct. When I see this date --

1 G. Valle

2 Q. Well, people are trying to get the  
3 report, right, they are FOIL'ing it?

4 A. Yeah, right. They have -- somebody --

5 Q. They know something happened.

6 A. Exactly. And they're trying to get  
7 stuff. Yeah, I'm not sure what I said to him.  
8 I'm sure we didn't release a FOIL report that had  
9 something different. I would be quite surprised.

10 Q. Well, Darren's concerned in that e-mail  
11 is "we've got a false report in the SJS system  
12 right now." Did you --

13 A. Well, I don't know that he's saying  
14 it's false. I mean, he says the problem is the  
15 entry is not true. I mean, look, it is, in  
16 essence, at that point, it is an entry, you know.

17 Q. So by this date at the very least,  
18 you're aware that there is a report that's been  
19 created in the SJS system that is not true, right?

20 A. Well, that is different, that is  
21 different from, I guess, the original report,  
22 yeah.

23 Q. Well, what was your reaction to this  
24 e-mail? Did you ask to see, what are you talking  
25 about it's not true?

1 G. Valle

2 A. No. We probably spoke about it because  
3 I'm sure at this point, you know, then he is  
4 aware -- I'm trying to date that meeting, you  
5 know. I mean, that's the difficulty that I have,  
6 that meeting with Bennett and Cumoletti and  
7 company. So I really thought --

8 Q. It doesn't help you at all to see that  
9 the document is changed on December --

10 A. Well, yeah, it does, and then I see  
11 this. So I'm trying to recollect how soon after  
12 there may have been some of those sporadic  
13 inquiries. And maybe it was within days of the  
14 original incident?

15 Q. There was a FOIL request on December  
16 15.

17 A. Okay.

18 Q. Okay? It's a FOIL request, though, we  
19 want the document. Right?

20 A. I don't know. You're telling me that.

21 Q. So the information is swirling around  
22 that there was an incident.

23 A. Okay so --

24 Q. So by at least March of '06, you are  
25 told by one of your deputies that there is a

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2 document in the SJS system concerning the Sweeney  
3 incident that is not true, right?

4 A. Right. Yeah, well, I think he's --  
5 from -- I don't think my -- you know, I don't  
6 think he's telling me something for the first  
7 time. I think probably this is post that  
8 Cumoletti, Bennett meeting, because I think that's  
9 when it happened, you know. So I think he's just  
10 probably documenting it.

11 Q. What I'm trying to understand is, when  
12 did you become aware that this document, the aid  
13 and assist, had been put into the SJS system?

14 A. When -- at the conclusion of that  
15 meeting. Some point after that meeting. I mean,  
16 if we could date that meeting, that would help me,  
17 because that was the purpose of the meeting. I  
18 thought -- I was sort of transferring it closer to  
19 the election when all those documents --

20 But maybe, you know, Steve Cumoletti is  
21 is being asked well, how is the Glens Falls paper,  
22 how is this information, why are we getting these  
23 FOIL requests, and he is saying well, someone can  
24 get onto this and see this head note here. I'm  
25 not even sure I knew at that point they could get



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2 any other document. Certainly like the DIR isn't  
3 even electronic.

4 So yeah. I mean, that's as I told you,  
5 just put a block there to say to see this document  
6 or any documents related to this, call this number  
7 or so this person. So that didn't happen, so I  
8 think that's what happened. So Darren saying to  
9 me -- this is probably post that meeting.

10 And I think what I said to Darren was  
11 well, we're not going to release anything that's  
12 changed like that. Becuase, as you can see, as I  
13 previously explained to you, when the FOIL request  
14 came in, the document that went out was not that,  
15 to my recollection.

16 Q. Right. You are not going to release an  
17 untrue document?

18 A. No. And I told him probably don't --  
19 you can ask him what I told him. I don't remember  
20 the conversation specifically.

21 Q. This document, the aid assist document,  
22 does this present any problems for you or were you  
23 okay with it being put into the SJS system?

24 A. I was -- you see, as it is, aid assist,  
25 it's not a big deal. It may be perspectively, as

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2 I said, that's what should be done. If we have  
3 this ridiculous security system where anyone can  
4 get these things, maybe we shouldn't be so  
5 specific if there's privacy issues. I wasn't  
6 comfortable with it being changed in light of the  
7 fact that the document was already a focus of  
8 inquiries, of a FOIL request. Do you understand  
9 what I'm saying? Is that clear?

10 Q. You weren't comfortable with this  
11 document being created or you weren't  
12 comfortable --

13 A. When there was another document, you  
14 know. It was an aid to assist. That's what we  
15 did. What does it say? Assist citizen. So  
16 that's accurate. There's nothing false there,  
17 okay, but it's different from the original entry  
18 that was there.

19 Q. Does that cause you any concern?

20 A. Yes. But the whole thing caused me  
21 concern. It caused me concern that you can get  
22 the thing that says domestic violence, that any  
23 Tom, Dick or Harry can get that. That caused me  
24 great concern for the reasons I told you. Okay?

25 So we have this lousy situation, this

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2 situation that jeopardizes people's physical  
3 well-being and possibly risk somebody's life down  
4 the line, and then so what do you do. I mean, so  
5 they did this. I wasn't comfortable with the fact  
6 that the document was changed and that this one  
7 document was changed under these circumstances,  
8 again, after it sort of come to light say through  
9 the Glens Falls paper or the Times Union paper,  
10 whatever paper was involved at that point, and  
11 that you are dealing with a Congressman, that you  
12 are dealing with --

13 To me, I don't care who he was. It  
14 could have been any person. The basics are the  
15 same, you know. But yes. I mean, when there is a  
16 change under these circumstances, it's a no-win  
17 situation.

18 Q. Prior to the Sweeney incident, had  
19 anything like this been done with State Police  
20 documents before, to your knowledge?

21 A. Not that I recollect, to my personal  
22 knowledge.

23 Q. Prior to the SJS system being put in  
24 place -- and approximately when did that happen,  
25 do you know? Is it in the 2000's or is it in the

1 G. Valle

2 '90s? You don't know?

3 A. I'm not comfortable answering. I'm not  
4 sure. It may have been in stages.

5 Q. Prior to SJS, how would these documents  
6 have been maintained?

7 A. Paper files. Hard files, yeah. As I  
8 understand it.

9 Q. Had there ever been a time when you  
10 were just using paper files where you had given  
11 advice that it would be appropriate to pull a  
12 document out of the files and seal it or keep it  
13 separate?

14 A. I don't recollect specifically doing  
15 that, but I think certainly if we had a document  
16 that was all of a sudden a highly sensitive  
17 document, that it should be put in a secure --  
18 that it shouldn't just be left, if we don't have  
19 security and anybody could go in and get this  
20 document and make a copy, or for whatever reason  
21 this document could jeopardize a criminal  
22 investigation, an undercover informant's name,  
23 whatever, yeah, I could see saying look, this is a  
24 hot document at this point for whatever reason,  
25 let's take steps to secure it, you know, put it

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2 under lock and key for the time being.

3 You know, that wouldn't be beyond the  
4 realm of possibilities. Again, depending on the  
5 facts and circumstances.

6 Q. Since the Sweeney incident, has  
7 anything similar occurred, to your knowledge,  
8 where a document or information sensitive like  
9 this has been released and steps were taken to  
10 protect the information at State Police?

11 A. No, not that I recollect. I think  
12 occasionally there may have been people leaking  
13 information. But no, I don't recollect anything  
14 like this.

15 Q. Do you have any knowledge as you sit  
16 there how it is that Kirsten Gillibrand's campaign  
17 came to have the actual document?

18 A. No. You know, I don't know for a fact  
19 they did, I don't know what they have, what they  
20 didn't have.

21 Q. You never saw the document that the  
22 press was referring to?

23 A. I may have. I don't remember if it was  
24 the domestic incident report or the SJS pieces or  
25 what. I probably saw the documents. I don't know

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2 that this reproduced it. I don't think I saw the  
3 actual document because they had a photo of it.

4 So I mean --

5 Q. Who is Robert J. Freeman?

6 A. He is the committee on open government,  
7 chairperson or --

8 Q. You appear to have had e-mail  
9 correspondence with him over the Sweeney FOIL. Do  
10 you remember that?

11 A. I don't remember that specifically.  
12 I've had conversations with Bob Freeman over the  
13 phone. I possibly had e-mail conversations with  
14 him. I've known him for a number of years. He's  
15 been there probably for as long as I've been my in  
16 my seat.

17 Q. So he's sort of a gadfly to the State  
18 Police or --

19 A. No, I don't call him a gadfly. He has  
20 a position where he is -- committee on open  
21 government. He can render opinions on government  
22 accessibility of documents.

23 (Three-page document dated 5-3-06 was  
24 marked as Valle Exhibit-13 for identification;  
25 12-30-08.)



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2 Q. Well, I will mark as Valle Exhibit-13  
3 an e-mail chain between you and Mr. Freeman, which  
4 begins on May 3 of '06, and he is -- I'm going to  
5 give it to you in a second, but basically what he  
6 is trying to do is to persuade you to change your  
7 view on this FOIL request that had been made  
8 because it's his view that the fact that a state  
9 trooper was called to and arrived at a certain  
10 address is a public event and is not secret and  
11 you disagree with it.

12 Do you remember this e-mail?

13 A. Oh, yeah. We have discussed that in  
14 person. I don't remember this particular e-mail.  
15 Bob and I have discussed this since I've been to  
16 seminars with him. He is a very nice man, very  
17 knowledgeable, but we disagree quite often. Well,  
18 I shouldn't even say quite often. We agree  
19 sometimes and we disagree sometimes. He is not  
20 counsel to the State Police, though, I am.

21 (E-mail dated 11-20-06 was marked as  
22 Valle Exhibit-14 for identification; 12-30-08.)

23 Q. There is an e-mail dated November 20 to  
24 Wayne Bennett from you regarding James Odatto  
25 calling your wife at her law office. I will mark

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2 it Valle Exhibit-14.

3 Do you know what that was about?

4 A. Yeah, I don't remember the e-mail, but  
5 I certainly remember the incident. My wife was  
6 absolutely furious. She got a call from,  
7 purportedly from a person who identified himself  
8 as this reporter, and the e-mail speaks for  
9 itself. He asked if she was married to me, and  
10 when she said yes, asked her if she could tell him  
11 anything about the inquiry going on over at State  
12 Police.

13 Q. Is that having to do with the Sweeney  
14 incident?

15 A. I think it is. It's probably --

16 Q. Your wife works at Boyce Schiller?

17 A. Yes.

18 Q. Is that Kirsten Gillibrand's firm?

19 A. Yes.

20 Q. So essentially was the tone of that  
21 call, it was your understanding, that he was  
22 suggesting that she provided the document or had  
23 something to do with providing the document?

24 A. No, I don't get that from smoking to  
25 her. I just think that she got the impression

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2 that she knew something because she was married to  
3 me, that I may have shared something with her.

4 Q. Are you aware that, after the November  
5 1 news articles concerning the Sweeney domestic  
6 incident, that IAB initiated an investigation into  
7 the leak of the document?

8 A. I think I heard that, yeah.

9 Q. Did you discuss that at all, that  
10 investigation, with Superintendent Bennett?

11 A. Possibly, yeah.

12 Q. Do you recall Superintendent Bennett  
13 telling you that he believed that Frank Pace was  
14 responsible for the leak?

15 A. No, I can't say that I specifically  
16 remember him saying that or have any recollection  
17 of him saying that. No.

18 Q. Do you remember having any  
19 conversations with the Superintendent about Pace  
20 generally?

21 A. Yeah. Well, I'm sure he brought up  
22 Frank Pace and it's possible he said he could have  
23 been one person, but I can't -- I don't want to  
24 say specifically that he said that.

25 (Times Union article was marked as

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2 Valle Exhibit-15 for identification; 12-30-08.)

3 Q. On November 18 of 2006 there is a Times  
4 Union article that quotes you -- and I'm just  
5 going to put that in front of you. The quote is  
6 "whenever it appears that a State Police document  
7 is or may be the subject of an unauthorized  
8 disclosure, we take measures to secure the  
9 document and limit general access to it."

10 Do you remember making -- is that an  
11 accurate reflection of your comment?

12 A. Yeah, probably.

13 Q. I just want to parse that, if I could.  
14 You said "whenever a State Police document is or  
15 may be the subject of an unauthorized disclosure."  
16 What did you mean by that, "may be"?

17 A. Well, if we ever have a document that  
18 was being -- you know, it was or may be, if there  
19 is some indication that it may be someone's  
20 leaking this document from this location, we are  
21 going to try to secure it, as I said to you  
22 before.

23 Q. And then you say "we take measures to  
24 secure the document and limit general access to  
25 it." But I just asked you whether there had been

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2 any other occasions and --

3 A. Yeah, I think I'm probably talking  
4 perspective. I think I'm really talking  
5 perspective.

6 Q. You are talking about what the State  
7 Police will do going forward?

8 A. What we did in this case is in essence,  
9 you know, what happened as a result of that, and  
10 what we would certainly do. I mean, documents  
11 shouldn't be subject to unauthorized disclosure.  
12 They should either come out officially or not.  
13 You can't have documents being leaked or stolen.

14 Q. In hindsight, do you think that there  
15 is anything the State Police could have done  
16 differently in response to the Sweeney information  
17 swirling about in December of --

18 A. With regards to documents, certainly  
19 have a security system that works, that a  
20 document, if it's accessed at least, there is --  
21 you are able to find out who accessed it and when.  
22 You know, that is certainly something that would  
23 have to be changed. That's what should have been  
24 done differently. You can't have the documents  
25 just --

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2 Q. Do you know if those changes have been  
3 made?

4 A. They were working on them, you know.  
5 That's a Steve Cumoletti question. It's a  
6 question of funding and the system, and it's a  
7 complicated system.

8 Q. I just want to ask you just a couple of  
9 questions about what's been called Troopergate.  
10 Post Troopergate have any measures or has anything  
11 been implemented in the State Police to ensure  
12 that any requests for documents from the Executive  
13 Chamber go through a certain procedure?

14 I mean, has any sort of --

15 A. Have they been implemented?

16 Q. Has anything been done to try to  
17 prevent a similar event from happening?

18 A. I'm not certain that any procedures or  
19 regulations were changed because I'm not sure that  
20 they needed to be. I think what happened there  
21 was something unique and really didn't fall in --  
22 as I have stated a number of times in various  
23 forums, that it wasn't a FOIL request.

24 So I don't know that anything  
25 substantively in writing, as far as regulations,



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2 has been changed. There's -- there was that audit  
3 done of the ESD. I don't know -- was that done as  
4 a result of Troopergate, it's hard to say. I  
5 mean, I don't know.

6 This is as much the issue with the  
7 former Governor, you know, the former ESD, you  
8 know. So I can't think of any written regulations  
9 that have been changed or written policies that  
10 have been changed, but I'm not sure that anything  
11 needed to be changed. I think what's in writing  
12 now is appropriate.

13 Q. It's my understanding that  
14 Superintendent Corbett has frequent meetings with  
15 the Executive Chamber. Is that your  
16 understanding?

17 A. You will have to ask him that. I don't  
18 know how often he meets with them. I really  
19 don't.

20 Q. As far as you know, in the wake of  
21 Troopergate have any requests been made of the  
22 Superintendent directly by the Executive Chamber  
23 for production of documents of any kind?

24 A. Not that he shared with me.

25 Q. Is that something that may be a good

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2 procedure to have in place, Superintendent, if the  
3 Executive Chamber asks you for something, you need  
4 to run that by me as your counsel?

5 A. It won't hurt.

6 Q. Have you suggested that to the  
7 Superintendent?

8 A. Possibly. Maybe orally. I mean, I  
9 don't know that I did it in writing. I don't  
10 know.

11 Q. But you are not aware of any such  
12 requests having been made in this administration?

13 A. I am not aware of any requests, no.

14 Q. One last question on this topic. It  
15 was reported in the Daily News in April of '08  
16 that on July 18, 2007, which was five days before  
17 this office issued its report on Troopergate, that  
18 you and Darren O'Connor met with Peter Pope and  
19 Sean Maloney.

20 Do you recall that meeting?

21 A. Yes.

22 Q. And can you tell me what you were doing  
23 in that meeting?

24 A. I think I'm going to have to raise  
25 attorney/client privilege. I would be happy to

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2 talk to you about that, but when I went down to  
3 that meeting, I was told by the individuals that  
4 you mentioned that we were acting in the capacity  
5 of counsels to the Governor at that point, so that  
6 there is an attorney/client privilege, I think,  
7 relating to Governor Spitzer.

8 And I'm not trying to avoid your  
9 questions or discuss this, but I feel ethically  
10 bound because we were, Darren and I were told by  
11 those individuals -- they said well, you know, at  
12 first they said we'll give it to you in writing,  
13 but no, you don't need it in writing, you are  
14 Executive Department attorneys, so you're here as  
15 part of the Governor's legal staff.

16 So that's like an attorney work product  
17 meeting, so to speak, and the client at that  
18 point, at least from the people that told me this,  
19 was the Governor.

20 Q. Have you ever been told that you were  
21 acting as the Governor's counsel?

22 A. Well, I wasn't told I was acting as the  
23 Governor's counsel. I was told that I was  
24 assisting the Governor's counsel, in that Darren  
25 and I, we were told that we were serving as

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2 assistants to the Executive counsel at that point.

3 Q. Okay.

4 A. So if that privilege is waived, I will  
5 be happy to discuss that. I just don't want to  
6 wade into that.

7 Q. In September of 2003 Wayne Bennett was  
8 appointed Superintendent succeeding Jim McMahon;  
9 is that right?

10 A. I will accept your dates.

11 Q. Well, you know that Bennett came after  
12 McMahon?

13 A. I know that, yes.

14 Q. Did you talk to Superintendent Bennett  
15 about what, if any, arrangements had been made  
16 concerning the length of his appointment?

17 A. Bennett's appointment? No.

18 Q. Uh-huh. He never told you that there  
19 had been any limitations put on the duration of  
20 that appointment?

21 A. Not that I recollect, and I believe I  
22 would recollect that.

23 Q. And did you know who Wayne Bennett  
24 wanted to appoint as First Deputy Superintendent?

25 A. I had heard that after the fact. I had

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2 heard that, after the fact somebody told me. He  
3 didn't tell me that, so it would just be hearsay.

4 Q. Did you know that it was not Preston  
5 Felton that he wanted to appoint?

6 A. Somebody else told me that Bennett  
7 really wanted to appoint somebody else. I didn't  
8 get this from Bennett, and I don't know if it's  
9 accurate.

10 Q. You never asked Bennett about that?

11 A. No.

12 Q. Well, in your view, would it be  
13 appropriate for the administration to dictate who  
14 should be First Deputy Superintendent?

15 A. It's not up to me to determine what's  
16 appropriate or not. Again, it would depend on the  
17 facts and circumstances, and also, to use the term  
18 dictate, you know, that's a very loaded question,  
19 with all due respect.

20 Q. You don't want to give me your opinion  
21 on that?

22 A. No, not as phrased.

23 Q. Okay. In December of '06 did you have  
24 conversations with Wayne Bennett about the fact  
25 that he should step down?

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2 A. I don't recollect any conversation with  
3 him suggesting he step down. That would be sort  
4 of presumptuous.

5 Q. Okay. I'm going to show you an  
6 e-mail --

7 A. December of '06?

8 (E-mail dated 3-7-07 was marked as  
9 Valle Exhibit-16 for identification; 12-30-08.)

10 Q. Yes. I'm going to mark as Valle-16 an  
11 e-mail chain between you and Olga Cordi. Who is  
12 Olga Cordi?

13 A. Superintendent's secretary.

14 Q. You indicate that "I pleaded with him  
15 to leave in December." Well, that's what you say,  
16 but you can read the whole e-mail. It's about  
17 Superintendent Bennett's leaving.

18 A. It's possible after the election of  
19 Spitzer, at the end of the year, he told me that  
20 he wanted him out or something like that. See,  
21 what this relates to is that at a certain point  
22 the Spitzer people had indicated to him that they  
23 wanted him to leave. So at that point he and I  
24 may have had a conversation. But I wouldn't have  
25 suggested to him well, why don't you just leave



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2 now.

3 Q. But you think that the Spitzer people  
4 made that note to him in December?

5 A. I think there was some -- yeah.  
6 Clearly, if I'm saying this, I said to get in  
7 December -- see, what happened is he -- well, it's  
8 sort of a sad e-mail. But it was a very less than  
9 gracious departure, you know, on his part with the  
10 office stuff and furnishings, and I was asked to  
11 clear out his personal effects and stuff like that  
12 so...

13 Q. Oh, he didn't want to leave? What do  
14 you mean it was "less than gracious"?

15 A. He -- I basically had to clean out his  
16 office.

17 Q. So it was uncomfortable?

18 A. It was very uncomfortable for me, very  
19 painful. And, you know, at a certain point when  
20 the new administration was coming in, he may have  
21 said well, I got the hint they want me out and I  
22 said well, then just leave on your own terms,  
23 leave now. But I wouldn't have suggested to him  
24 why don't you leave.

25 Q. Well, I'm just using your words, "I

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2 pleaded with him."

3 A. No, I understand. There was a certain  
4 point where it became clear that the new  
5 administration, I think, signalled to him that it  
6 was time to go.

7 Q. And what was he going on about, was it  
8 just the fact that he had been -- he said "I'm  
9 part of the new administration and I can't comment  
10 on what it is that he's going on about."

11 A. He may have discussed with me who they  
12 wanted as the new Superintendent, and as I said  
13 here, it's my obligation to a new administration  
14 now, a new agency, if he's on his way out.

15 Q. Preston Felton had put in his  
16 retirement, announced his retirement about a month  
17 before this, on February 7, '07. Do you remember  
18 that?

19 A. Can I just -- I just want to -- I'm  
20 just reading what prompted this. Somebody else  
21 brings out knowing when to fold them.

22 (E-mail dated 2-7-07 was marked as  
23 Valle Exhibit-17 for identification; 12-30-08.)

24 Q. I've marked as Valle Exhibit-17 the  
25 retirement announcement by Preston Felton on

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2 February 7, '07. Do you remember that?

3 A. Uh-huh.

4 Q. Did you discuss that with Preston  
5 Felton at the time that he retired?

6 A. Yeah. I discussed -- I remember  
7 Preston getting the word that it looks like they  
8 were going to ask him to leave or they were  
9 interviewing or inquiring to other people about a  
10 successor, and I think that word got back to him.  
11 And so yeah, he did discuss it in like advance,  
12 and I remember saying well, you know, well, maybe  
13 it's not true or maybe, you know, you can speak to  
14 them and see if you can stay on. Maybe, you know,  
15 that's -- maybe you are misreading it, or  
16 something like that. I don't think anyone told  
17 him specifically, hey, you're out, but I guess he  
18 was getting that and they spoke to him, maybe they  
19 want me out and maybe I should go.

20 Q. He said somebody in the Spitzer  
21 administration? He understood that from the  
22 Spitzer administration?

23 A. No, no, no. I'm not talking about the  
24 Spitzer administration. I'm talking about the  
25 Paterson administration.

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2 Q. This is '07.

3 A. Oh, okay. Okay. We need to correct  
4 this. This is when he's first Deputy  
5 Superintendent.

6 Q. Correct.

7 A. Oh, okay. I'm very sorry.

8 Q. I'm sorry. I should have made it clear  
9 to you.

10 A. He said something very similar when he  
11 left as Superintendent. My apologies. I  
12 completely misunderstood.

13 Q. That's okay. We can completely redo  
14 that. This is February 7 of '07, and Bennett  
15 retires March 7, '07. So a month later Preston  
16 Felton is Made acting --

17 A. All right. No. When -- and again, my  
18 apologies. I didn't read this carefully. This  
19 was a surprise to me. I was shocked when I saw  
20 this. He had no conversation with me, and I think  
21 I was out. I think I got this on my Blackberry,  
22 and I said oh, God, Preston's leaving.

23 Q. So did you know in the interim, between  
24 February 7 and March 7, that Preston Felton was  
25 talking to the administration about becoming the

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2 next Superintendent?

3 A. No. The whole revolving door was just,  
4 I was a spectator to. He was out and then he was  
5 in. And I just remember asking him did he want  
6 his clock back when he came in. I'm sorry.

7 Q. Did you give it back to him?

8 A. No. He said I can keep it. I liked  
9 his office wall clock, you know.

10 Q. After Preston Felton comes back as  
11 Acting Superintendent, there were a couple of big  
12 retirements. Joe Loczinski, Bill DeBlock retired.  
13 Did you know anything about the circumstances of  
14 their retiring?

15 A. No, I did not.

16 Q. Neither one of them talked to you?

17 A. Well, no. I mean, to the extent that I  
18 could just sense -- I mean, I spoke to them and it  
19 was sort of clear that they were sort of being  
20 asked to leave, but they didn't go into details.  
21 This was very sudden, there were two of them.  
22 There was a new Superintendent or Acting  
23 Superintendent and obviously -- I think, what was  
24 it, within a week two people go out who hadn't  
25 been speaking to me about their plans to retire,

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2 so it was just sort of obvious. But it was little  
3 awkward. I never said to them well, who said what  
4 or whatever.

5 Q. After Governor Spitzer resigns, do you  
6 become aware that there has been a request by  
7 Governor Paterson's people for a major overhaul of  
8 ESD as far as personnel is concerned?

9 A. Yes.

10 Q. And how did you become aware of that?

11 A. Preston called me into his office.

12 Q. Did you know that Preston Felton sent a  
13 lengthy e-mail about that to Michael Balboni?

14 A. Yes.

15 Q. Did you assist him in drafting that?

16 A. No. Never seen it.

17 Q. You have never seen the e-mail?

18 A. No.

19 Q. What did Preston Felton tell you had  
20 happened?

21 A. He called me up and said could you come  
22 over.

23 THE WITNESS: And I would take it this  
24 is covered by the attorney/client waiver?

25 MS. SAVITT: Yes, it is.



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2 THE WITNESS: I just want to make sure.

3 A. Called me over, asked me hey, can you  
4 come over a second, I want to speak to you about  
5 something. And got into his office and he said --  
6 now, up until this point I don't believe there's  
7 any indication that -- I'm not sure that there's  
8 any indication at this point whether he's leaving  
9 or not. I'm trying to fit this in temporally so I  
10 don't know.

11 But he says I want to ask you  
12 something. I said what. He says look, they want  
13 me, and I don't think he said who, they, but clear  
14 they is someone from the Executive Chamber, want  
15 me to make some wholesale changes to the  
16 Governor's detail. And I said oh, okay.

17 And I didn't really know at this point  
18 how the Governor's detail -- you may think this is  
19 incredible, but I didn't know how the Governor's  
20 detail was really selected, how the people got  
21 there. So he said they want me to take 13, 12 or  
22 13 or 14, I can't specifically remember, people  
23 out and put, you know, the same number in.

24 And I said oh, really. I said well,  
25 that's crazy. That's like, looks very political.

1 G. Valle

2 And one of the things that I agreed with in the  
3 first Cuomo report was, shouldn't really have that  
4 political involvement. So I said after, in light  
5 of that Cuomo report coming out, this is going to  
6 look like, all of a sudden there's changes going  
7 to be made. He says but it's worse, of all the  
8 people they want out are white and all the people  
9 they want replaced are black and Hispanic.

10 And I said ew. He says that's a  
11 problem, isn't it? And I said yeah, I think  
12 that's a problem. I mean, just on its face, it  
13 looks racially disparate. There was no  
14 justification. He said well, that's how I feel.  
15 And I said well, as your counsel, I'm advising you  
16 that would be highly risky behavior, probably  
17 violative of various civil rights, federal  
18 sections and human rights state law.

19 He said okay, good. I just want to  
20 make sure that I'm correct. I said yeah, I mean,  
21 I would just tell these people that that's crazy,  
22 you can't do that. So that sat, and then he  
23 called me back later, and maybe a day or two  
24 later, I forget because like now -- I sent an  
25 e-mail like that, just to put it on the record,

1 G. Valle

2 and somebody's all upset with me now, I got a  
3 call.

4 Q. Did he tell you who was upset with him?

5 A. I believe he indicated it was Charles  
6 O'Burne. And he said he was told, how dare you  
7 put that in an e-mail, you're crazy, you're an  
8 idiot. He says I'm glad I did because I didn't  
9 think that was right.

10 He was very upset with it. He was very  
11 upset with the idea of doing it. He saw no reason  
12 why these people should be removed and these  
13 people put in and just saw it as inappropriate.

14 Q. So he resisted that?

15 A. As far as I know, he did, absolutely.  
16 And, you know, I told him, as his counsel, the  
17 agency counsel, it would not be appropriate and  
18 subject the agency and himself to liability. And  
19 I also didn't think it was a good idea in light of  
20 what we just went through with Troopergate.

21 Q. So as far as you know, those changes  
22 were not made to the detail?

23 A. No. I personally went downtown and  
24 spoke to the Governor's counsel.

25 Q. Who was that?

1 G. Valle

2 A. Dave Nascenti at that point.

3 Q. What did you tell him?

4 A. Preston called me back in, I think, a  
5 third time and said, you know, they're really, you  
6 know, yelling at me. He was very upset. He said  
7 I'm ready to go up to Albany City Court and get a  
8 warrant for harassment against that individual.

9 Q. Against O'Burne?

10 A. Yeah. I don't like being spoken that  
11 way, it's despicable. And I said you're doing the  
12 right thing. Just don't do it. And then I think  
13 I thought about it overnight and I said I -- by  
14 this point Preston was on his way out, so I  
15 figured, I'm going to be here to have some  
16 continuity here and I'm going to put the  
17 Governor's counsel on notice.

18 So I called up David Nascenti and I  
19 said David, there's something very important I'd  
20 like to speak to you about. And he said, oh, I  
21 can tell from the tone of your voice it sounds  
22 like a today issue. I said yeah, preferably. He  
23 said come on down.

24 I laid it out. I said this is what  
25 Preston is being asked to do. I said from what I

1 G. Valle

2 gather, this understanding from Preston, no  
3 Governor's office has selected the members of the  
4 detail for themselves. They selected the head of  
5 the detail. And I literally learned it over that  
6 course of a couple of days.' I said but to make --  
7 it looks so bad on its face, but then this racial  
8 mix is horrible.

9 And he said you're absolutely right,  
10 you know, okay. And I said, you know, I felt I  
11 just wanted to bring it to your attention. And he  
12 said do you mind if I speak to Charles, and I said  
13 no, of course not, that's why I'm down here. I'm  
14 not coming here undercover. And I felt that I had  
15 to do what I had to do no matter what personal  
16 consequence it had to me.

17 And I told him -- and I asked Preston  
18 before, and I said can you waive attorney/client  
19 privilege, I am a stickler about that, before I go  
20 down. I am going to go down to get this guy off,  
21 you shouldn't have to deal with this crap. And I  
22 told Dave, I said look, that man's on his way out.  
23 I said tell Charles to leave him alone because  
24 he's ready to go get a warrant for his arrest.

25 And this is just, I think, probably



1 G. Valle

2 used the term bullshit. Here is an agency. We as  
3 an agency should not be subjected to this and it's  
4 wrong. And I felt very strongly about it, and  
5 I've -- to me it didn't matter what what personal  
6 risk I put to myself.

7 And the next day I got this call from  
8 Charles O'Burne, very formal. Counsel, that's not  
9 going to happen. The Governor doesn't want to do  
10 that. I said well, I hope you understand why I  
11 went down there. I went down to protect the  
12 illegality from occurring. He said oh, I  
13 understand, thank you very much. He was very  
14 stern.

15 And then Harry Corbett told, me first  
16 conversation he had, I think, or one of the first  
17 conversations he had with Charles O'Burne, he said  
18 fire him, Valle.

19 Q. O'Burne, is it?

20 A. But I was proud of what I did.

21 Q. Did you have any other dealings with  
22 O'Burne after that? No?

23 A. Only dealing I had with him is that  
24 conversation when he assured me it wasn't going to  
25 happen. I said well, I will sleep better tonight.



1 G. Valle

2 But I did follow-up with Nascenti after my first  
3 meeting, and I said, you know, and I think also  
4 the word is out on the detail, all these people  
5 know, because I think the head of the detail had  
6 gotten that list before clearing it with Preston  
7 and said okay, it looks like you 14 are going, or  
8 12 or 13, I forget the number. So I said to Mr.  
9 Nascenti, there's going to be some disgruntled  
10 people. You should know that.

11 Q. Okay. Is there anything else you want  
12 to tell me on that topic about that?

13 A. Yes. When Preston -- that was his last  
14 day, when O'Burne called me, and he said it's off,  
15 it's not going to happen, I spoke to the Governor,  
16 he doesn't want that to happen. I don't know that  
17 he indicated it was going to happen or not, you  
18 know. I mean, Preston wasn't lying to me. He got  
19 that e-mail out. Again, I never saw that e-mail.

20 So I said okay, thank you very much, I  
21 will sleep better. And then I called Preston  
22 Felton, because I think O'Burne says, so you can  
23 tell the head of the detail that it's not going to  
24 happen at this point. So Preston is literally,  
25 it's his last day on the job and he is literally

1 G. Valle

2 driving home, but it's not 5 o'clock yet and it's  
3 now close of business that day.

4 So I remember calling him on his cell  
5 phone and saying hi, listen, this is probably one  
6 of my last official business with you, but I just  
7 got a call from Charles O'Burne, that whole  
8 business with the detail is not going to happen.  
9 So maybe I did do something when I went down  
10 there.

11 I said but you are still Superintendent  
12 until 5 o'clock, do you want to call -- what's the  
13 detail guy's name, Covington was it then? Do you  
14 want to call Rod Covington and tell him that it's  
15 not going to happen so those people don't start  
16 packing their desks. He said nope, I'm out of  
17 there, I'm home now, I've been home.

18 He said yeah, O'Burne was trying to  
19 call me but I won't take his call. That's why he  
20 called you. I'm just ignoring him. I'm sick of  
21 him. He said no, you go ahead and call Rod and  
22 you take care of it. So I did that.

23 And then after 5 o'clock I called Pedro  
24 Perez, because at that moment he assumed the  
25 position of Acting Superintendent. And we sat in

1 G. Valle

2 my office and I said look, let me just give you an  
3 update on what's happened the last couple of days,  
4 the last week, and you should know, because I was  
5 concerned that someone was now going to take a run  
6 at him and do this, and he's brand new and he  
7 doesn't know.

8 I said this is what happened, this is  
9 what Preston said, and then this is what continued  
10 to happen and this is what I had to do, this is  
11 what I've done, you should be aware of it, this  
12 should not happen under these terms and  
13 circumstances. It looks very, very bad and  
14 illegal.

15 So he said oh, yeah, no. Okay. Okay.  
16 So I said I didn't want anyone getting around me  
17 at that point, so I briefed him, sort of as the  
18 incoming guy, and that was it. It was a Friday  
19 and I went home and enjoyed the weekend.

20 (E-mail dated 3-21-08 was marked as  
21 Valle Exhibit-18 for identification; 12-30-08.)

22 Q. I'm just going to mark an e-mail from  
23 Preston Felton to you, there is a chain, but he  
24 says something about how they said they could make  
25 my life difficult. Is that what it says? Could

1 G. Valle

2 you read just --

3 A. From Preston Felton. "Yeah, they  
4 appear not to want to leave -- it starts on the  
5 bottom, okay. I'm sorry.

6 Q. I think you are talking about his  
7 retirement.

8 A. Yeah. His retirement message to the  
9 agency was an e-mail.

10 Q. I'm just interested in what he says on  
11 the top.

12 A. Yeah. So I said -- I think my  
13 office -- we have access to send something out, so  
14 he had sent it over and said can you send it out  
15 in your office. So I don't know whether he moved  
16 it up or something. So yeah, April 4th. So I  
17 said should I send this out? And he said yeah,  
18 April 4th was still the date. I think that was  
19 his final date or whatever.

20 He says "yeah, they appear not to want  
21 to leave early. It appears they want to torture  
22 me. Received a message today that I should be  
23 careful because they could make my life  
24 difficult." Yeah, I never asked him about that.  
25 I don't know -- that was sort of troubling, but I

1 G. Valle

2 don't recollect following that up. But I think he  
3 actually leaves earlier. I think it was first  
4 April 4th and then somebody moved it up.

5 Q. So you don't know what that means then?

6 A. No. No, he didn't share that with me.  
7 Other than that.

8 Q. When Superintendent Bennett retires,  
9 and he is going to have a retirement party, right?  
10 Do you remember that?

11 A. Yes.

12 Q. And you had some concerns about who,  
13 which legislators were going to be invited?

14 A. Absolutely, right. Right. Right.

15 (E-mail dated 7-3-07 was marked as  
16 Valle Exhibit-19 for identification; 12-30-08.)

17 Q. I will mark as Valle Exhibit-19 an  
18 e-mail exchange. It looks like it starts with  
19 Olga Cordi and Steve Cumoletti and you're cc'd,  
20 and then it's from you to Steve Cumoletti and  
21 Olga.

22 A. Right.

23 Q. And you are saying that, they're  
24 telling you who he does and doesn't want to  
25 invite, as far as legislators are concerned. And



1 G. Valle

2 you said "with all due respect, at Superintendent  
3 Bennett's wishes, we are not operating in a vacuum  
4 here. The outside world doesn't perceive who  
5 picks what and what the reasoning behind it is.

6 This is a function with a certain  
7 amount of institutional interest as well as state  
8 resources being devoted to, such as our time right  
9 now. Most importantly, we have a sitting duck  
10 serving in an acting capacity. You can very well  
11 catch some flak, especially in today's political  
12 climate. Bennett can play favorites, we cannot  
13 and will not. Farley can be cut, but as to the  
14 rest, here's the deal." And then you list Bruno,  
15 Silver, Tedesco, Smith. "That's it. No wiggle  
16 room here?"

17 Why were you so concerned about the  
18 guest list as far as legislators are concerned?

19 A. I think I actually followed this up  
20 with another one. Yeah, I was on the dinner  
21 committee. In fact, I was the MC for this dinner,  
22 but I was also on the committee. And this is  
23 prior to even the first newspaper article, I  
24 believe, on what we call now Troopergate, okay.

25 And when this was set up, you know,



1 G. Valle

2 they have the Superintendent's secretary and the  
3 other secretary, you know, working this dinner.  
4 And I had checked -- my concern was, first of all,  
5 ethics, that we had this private dinner for an  
6 employee and how much resources can you expand on  
7 it, and we are also sending out official  
8 invitations from Preston Felton to certain people.

9 So as counsel, I sort of got involved  
10 with the two of them, Olga is his secretary, this  
11 Superintendent's secretary, and Steve Cumoletti we  
12 have discussed, I mean, he was part of this  
13 committee. And I said look, you can discuss it  
14 with ethics. You can use certain state resources  
15 within limitation for a commissioner's or a  
16 person's retirement thing, but we also have a  
17 dinner committee.

18 And to the extent that there's going to  
19 be personal friends or other people -- we set up  
20 an elaborate thing. This could be state postage.  
21 This had to be dinner committee postage. This  
22 could just be personal stuff like that. But I  
23 just looked at the list, and it was sort of like  
24 the official list. To have like just one of  
25 these, you know, like I say Bruno and not Silver

1 G. Valle

2 or Tedesco and not Smith, and I made it very clear  
3 that as an agency -- you know, Bennett can invite  
4 who he wants privately.

5 It was sort of a quasi private. It  
6 wasn't an official function but yet there was some  
7 official -- and Preston was sending out  
8 invitations to certain commissioners. So I said  
9 look, you don't just have one party or the other.  
10 If we're sending it out as an agency, it's this,  
11 this, this and this, that's it, and there's no  
12 wiggle room here.

13 And I was annoyed that this was even  
14 being questioned, because I was -- I would look at  
15 the list and say nope. Oh, we have to do a new --  
16 from ethical and for public purposes, as an  
17 agency, we are not going to play favorites one  
18 side or the other.

19 Q. So your concern with Bennett's list was  
20 that it did not, it was not inclusive enough, it  
21 looked like it was slanted to one party?

22 A. Yeah. It wasn't balanced, right.  
23 Yeah.

24 Q. And that, in your view, would make it  
25 look like it was a political event?

1 G. Valle

2 A. Yeah. He could invite who he wanted  
3 privately. That's -- again, it's a private thing.  
4 But officially, us as an agency, sending out these  
5 invitations with the State Police return envelope  
6 in it, if we're going to send it to one of these  
7 people, we are going to send it to all four of  
8 them. And I was a stickler about that, and I  
9 think I followed it up with another e-mail, saying  
10 do this, this is important.

11 Q. Okay.

12 A. And that's pre, if you note, any  
13 Troopergate stuff.

14 Q. Are you familiar with David Mack?

15 A. Yes.

16 Q. And you know that Superintendent  
17 McMahon appointed him as Deputy Superintendent of  
18 facilities management? Yes?

19 A. Yes, I'm aware of that. Right.

20 Q. Did you have any knowledge of that  
21 before that appointment was made?

22 A. Absolutely not.

23 Q. Did you have any discussion --

24 A. As I recollect, no.

25 Q. Did you discuss that appointment with

1 G. Valle

2 anyone after that happened?

3 A. Possibly. I don't think I discussed it  
4 with Jim McMahon much at all. I think he just --  
5 I wasn't even sure, frankly, of what his position  
6 was. I think -- I see you have a letter there. I  
7 never saw that letter until years later.

8 (One-page letter dated 9-15-95 was  
9 marked as Valle Exhibit-20 for identification;  
10 12-30-08.)

11 Q. We'll mark this as Valle-20. It's  
12 dated September 15, '95 to David Mack from  
13 Superintendent McMahon making him Deputy  
14 Superintendent of facilities management.

15 Q. Had that position existed before?

16 A. No. No. To the very best of my  
17 recollection, I was never consulted on this. It  
18 was never brought to me. As you note, I'm not  
19 cc'd on this letter. When I saw this letter some  
20 years later, I said this is weird.

21 Q. Well, when is it that you became aware  
22 that this appointment had been made?

23 A. Sometime after the fact, but I wasn't  
24 really sure. He wasn't a presence in the  
25 organization. I don't think I've ever spoken to

G. Valle

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the man.

Q. He was coming to official events,  
though, right?

A. Yes. He would sit up there, and then  
one day he was sitting up there in uniform. But I  
didn't know -- and then people started calling him  
Colonel, you know. But I didn't consider him --  
you know, I saw this as some honorary thing, and I  
really wasn't aware that he was -- focused in on  
there was this appointment letter Deputy  
Superintendent --

Q. He wears carries the title of Colonel,  
right?

A. Deputy Superintendent normally does,  
right. It does.

Q. Are you aware of any other appointments  
like this -- first of all, do you know whether  
David Mack had ever been a member of the State  
Police before this appointment?

A. No. To the best of my knowledge, he  
wasn't.

Q. Are you aware of any other appointments  
like this, of people who had never been members of  
the State Police?

1 G. Valle

2 A. Not to that position. In fact, I was  
3 subsequently asked about if he could be  
4 reappointed, and I said no.

5 Q. Who asked you that?

6 A. Preston Felton.

7 Q. After he had been terminated in January  
8 of '07? Yes?

9 A. Yes. I'm sorry.

10 Q. Did this appointment cause you any  
11 concern?

12 A. At the time he was a figurehead. He  
13 just -- he sat up at graduations and that's it. I  
14 didn't really -- they called him Colonel. He  
15 didn't have any operational dealings with me. I  
16 don't know what he did. I saw it as an honorary  
17 title.

18 You know, I know some people had  
19 concern that they would just express oh, this guy  
20 shouldn't be put in a uniform and walking around  
21 and stuff like that. But I didn't really focus on  
22 it. I didn't see any -- nothing was brought to my  
23 attention that I had to get involved in.

24 Q. Did you have any knowledge that he was  
25 a major political backer of Governor Pataki?



1 G. Valle

2 A. I've heard that. I don't have any  
3 personal knowledge. I don't know what their  
4 relationship is on a personal basis.

5 Q. If that in fact is true, would that  
6 cause you any concerns?

7 A. It's certainly not something we should  
8 make a practice of.

9 Q. Political appointments to the State  
10 Police?

11 A. And I was asked subsequently about it,  
12 and I said no and here's the legal reasons for  
13 that.

14 Q. What were the legal reasons?

15 A. Well, he was not eligible under the  
16 Executive Law, and that's when I first saw this  
17 letter.

18 Q. When Preston Felton talked to you?

19 A. Uh-huh.

20 Q. So you were aware then in January of  
21 '07 that his position was terminated? Did you  
22 know that?

23 A. He disappeared from graduations.

24 Q. You didn't know that Spitzer --

25 A. I didn't see a specific date or what,

1 G. Valle

2 you know. You have to understand, he was just not  
3 in my orbit. I didn't see this guy, know this  
4 guy. He could come and go. People retire every  
5 day. I don't know when they go.

6 Q. Did Preston Felton ask you about after  
7 reappointing him after he become the Acting  
8 Superintendent?

9 A. A long time later. Not initially.

10 Q. Did he tell you why he wanted to  
11 reappoint him?

12 A. He was asked or this -- or Mack was  
13 asking for reappointment, to be reappointed. He  
14 was lobbying for this position again, and he said,  
15 you know -- in fact, I recollect Superintendent's  
16 secretary coming over, and I think with that  
17 letter, that's the first time I saw it, and said  
18 he is looking to be reappointed again by this  
19 Thursday.

20 And I looked at this letter and I  
21 said -- look at this long list of cc's. Why isn't  
22 counsel on this? And I called up Preston and I  
23 said this is not -- under the Executive Law at  
24 this point can this person be reappointed.

25 Q. What provision --

1 G. Valle

2 A. As I recollect, at least one was that  
3 he was too old.

4 Q. So you gave him a legal basis to deny  
5 it?

6 A. And it didn't happen.

7 Q. You have mentioned Gary Berwick before.  
8 Obviously he tragically took his life in May of  
9 this year. Did you have any interactions with him  
10 in headquarters?

11 A. Yeah. From time to time.

12 Q. What sorts of things did Gary Berwick  
13 work on in headquarters?

14 A. Like -- and I didn't know Gary  
15 beforehand. I think I have previously stated  
16 that. I didn't even know who he was. He worked  
17 as an assistant to the Superintendent then, or  
18 Acting Superintendent Preston Felton. Letters,  
19 correspond -- you know, drafting certain stuff.

20 And occasionally he would come to me  
21 with a letter that he was going to write on behalf  
22 of the Superintendent and ask me to take a look at  
23 it. So I don't know fully what he did. I mean,  
24 he worked for Preston Felton. He didn't work for  
25 me. So he may have done a lot of other things I

1 G. Valle

2 didn't know about. I'm just telling you the  
3 things he would come to me, like letters and stuff  
4 like that.

5 Q. Did he ever tell you or did you ever  
6 observe that he was upset about anything? Was  
7 there anything that seemed to be bothering him  
8 while he was there?

9 A. While he was there, no. No. And then  
10 at the end, at the very end, the last couple of  
11 days -- and I didn't have a close friendship with  
12 him or anything. But I saw him and I got to like  
13 him. He was a wonderful man, I thought.

14 And I remembered, after this new  
15 investigation or this current investigation that  
16 we're all here right now dealing with, he had come  
17 to me -- I think he was on his way out at that  
18 point. He would have been, because he left like  
19 soon after Preston did.

20 And he said he was just -- he said oh,  
21 he says, this is terrible, you know. I don't know  
22 any of this nonsense with the smear squad or -- I  
23 don't know anything. I never -- he said, where is  
24 this coming from, you know, and I said I don't  
25 know. I never heard of it either. Never heard of

1 G. Valle

2 anything remotely like some of those allegations.

3 And he just, you know -- he said well,  
4 I know I didn't do anything wrong. And I said  
5 well, that's good. That's great. I'm sure, you  
6 know --

7 Q. Did you have any concerns about the  
8 fact that Preston Felton was not put up for  
9 nomination? Obviously before the Troopergate  
10 thing came about, there was a long period of time  
11 when he was Acting,

12 A. Well, he always was Acting. He  
13 never --

14 Q. But did you have any concerns about  
15 that from an agency perspective?

16 A. Yeah. I mean, it would have been nice  
17 to have a full-fledged Superintendent. This  
18 Acting was sort of in limbo. I mean, they kept  
19 talking about a national search and, you know -- I  
20 was like amazed because Preston like retired as  
21 First Deputy and then he's named as, quote,  
22 Interim Superintendent pending a national search.

23 Well, first of all, there is no such  
24 thing as Interim Superintendent. Preston Felton  
25 was only, had powers of Superintendent because he

1 G. Valle

2 was the First Deputy. You can't just appoint  
3 someone from the outside pending confirmation,  
4 absent the Senate being out of session.

5 And then I am reading like in the press  
6 release that he is Interim Superintendent pending  
7 a national search, and I'm like why would Preston  
8 come back from retirement. This I'm just thinking  
9 to myself. And then this national search went on,  
10 and I never heard anything more about it so...

11 Q. You never discussed it with anybody in  
12 the Executive Chamber about when --

13 A. Not in the Executive Chamber, no. It's  
14 not my place to say hey, move along here, get off  
15 the dime.

16 Q. Did Preston ever share with you what  
17 was happening as far as his nomination?

18 A. Yeah. He just said oh -- he mentioned  
19 this national search. I think he said that he  
20 heard they interviewed a couple of people or  
21 something that weren't interested in it. And then  
22 I remember he told me that the Governor, Spitzer  
23 then, had told me, like right after the  
24 Troopergate stuff is in the newspaper, he said  
25 that, you know, Governor Spitzer told me he was



1 G. Valle

2 going to not -- he made the decision to nominate  
3 me at that point or the week before or two weeks,  
4 but now all this stuff was up so it wasn't a good  
5 time. You know, it just seemed like --

6 Q. I'm just going to ask you some sort of  
7 broad questions to make sure that I've touched all  
8 the bases here.

9 Are you aware of anyone in the State  
10 Police providing negative information to the press  
11 on any political figure?

12 A. No. I mean, I've heard -- I remember  
13 one time Speaker Silver get a traffic ticket and  
14 it was in the press, so somebody called up. So I  
15 mean, I don't know of any specific individuals,  
16 but I have heard from time to time, primarily like  
17 with traffic tickets and stuff, somebody comes  
18 back to the station, talks in the locker room and  
19 somebody, you know, makes the call.

20 Q. Do you know when that happened with  
21 Speaker Silver? Was it in the last decade?

22 A. Decade or two. And he got a great  
23 line, I always remember that he was asked what are  
24 you going to do and he said pay the fine, and I  
25 liked that.

1 G. Valle

2 Q. Did you talk with him directly about it  
3 at that time?

4 A. Speaker Silver?

5 Q. Yes.

6 A. No. No. It was in the press.

7 Q. Was anything done to try and figure out  
8 how that got out into the press?

9 A. Not to my knowledge.

10 Q. Are you aware of any members of the  
11 State Police gathering negative information  
12 concerning political figures?

13 A. Absolutely not.

14 Q. Do you know of any situations when the  
15 State Police was asked --

16 A. I wouldn't have been with the State  
17 Police for 20 years if that was the case.

18 Q. Do you remember any situations where  
19 the State Police was asked to do that, to gather  
20 negative information?

21 A. I am not aware of it.

22 Q. Do you know whether any political  
23 figure has ever been targeted on the throughway by  
24 the State Police?

25 A. Not that I'm aware of.

1 G. Valle

2 Q. Have you ever been asked to find out  
3 whether any political figure had been ticketed or  
4 stopped on the throughway, for anyone other than  
5 internal purposes?

6 A. No. No. I can't -- not that I  
7 recollect, you know. I mean, is it possible in 20  
8 years did anybody ever say to me -- but not that I  
9 recollect. I highly, highly doubt that anybody  
10 ever would have asked me whether we stopped  
11 somebody on the throughway, yeah, outside the  
12 State Police, or inside the State Police. No.

13 Q. Aside from litigation needs, have you  
14 ever directed members of the State Police to  
15 gather State Police documents concerning political  
16 figures?

17 A. No. Absent any legal need for it in  
18 our office, you know, litigation or any other  
19 legal reason, no.

20 Q. Have you ever directed members of the  
21 State Police to conduct background investigations  
22 of political figures unrelated to routine  
23 employment checks?

24 A. No.

25 Q. Have you ever advised any political

1 G. Valle

2 figure on how to gather negative information from  
3 police resources?

4 A. No.

5 Q. Do you have anything to say -- I mean,  
6 you have made a comment about the allegations here  
7 and you never heard of anything like this  
8 happening in your time in the State Police.

9 Is there anything else you would like  
10 to say about the allegations that have swirled  
11 around at the initiation of this investigation?

12 A. All I -- well, I will say this: That,  
13 as we have established, I've been counsel for  
14 almost a generation of the State Police. There  
15 are a number of Governors, a number of  
16 Superintendents.

17 I have always seen every Superintendent  
18 that I have work with be of good, moral character,  
19 ethical character. I cannot see, with some of  
20 those allegations -- and again, they're all over  
21 the place -- any Superintendent, you know,  
22 tolerating that. At least from what I knew of  
23 them, from my experience. And it's just -- it's  
24 just not what the State Police is.

25 MS. MCCARTHY: Does anybody have

1 G. Valle

2 anything? No. Thank you. We're done.

3 (TIME NOTED: 4:59 P.M.)

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## CERTIFICATION

I, Stéfanie Gerber, a Notary  
Public in and for the State of New  
York, do hereby certify:

THAT the foregoing is a true and  
accurate transcript of my stenographic  
notes.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 5th day of  
January 2009.

A handwritten signature in cursive script, reading "Stefanie Gerber", is written over a horizontal dashed line.

STEFANIE GERBER

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